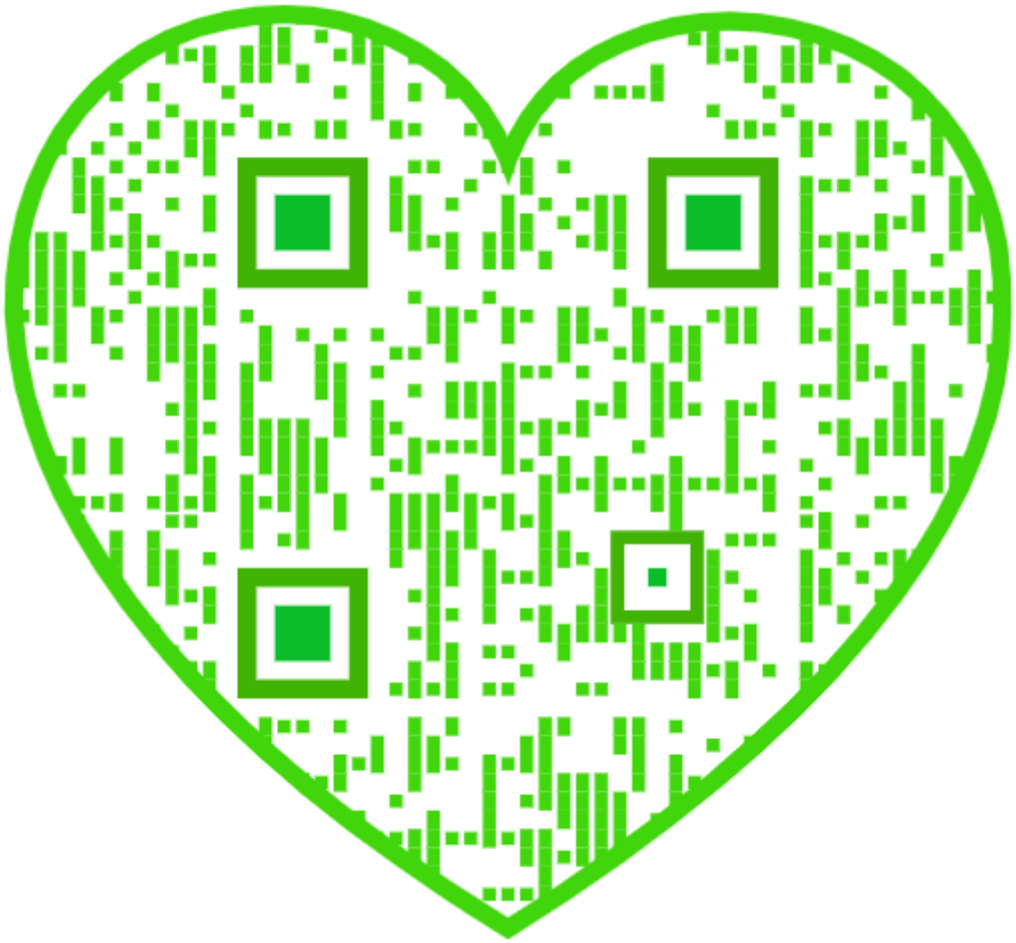
OUR GOVERNMENT
LOCAL STATE AND NATIONAL

JAMES AND SANFORD



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OUR GOVERNMENT

LOCAL, STATE, AND NATIONAL

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BY

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PREFACE.

The subject-matter herewith presented partially represents the plan pursued by the authors as teachers of civil government for a number of years in high school, academy, and normal school. It has been found that a study of the methods by which the affairs of government are conducted gives constant interest to the work, and, consequently, the practical side of government has been emphasized. But while our desire has been to bring the actual working of the institutions under which the student lives into prominence, we have also attempted to give such accounts of the origin and early development of forms of government as will assist in explaining their process of growth. The plan of discussion is similar to that followed in "Government in State and Nation." The general favor with which that text has been received leads to the belief that it fully meets the requirement of the Committee of Seven for such schools as present civil government in the third or fourth year of the course. In many cases, however, the subject is taught earlier in the course, and the present work has been prepared in answer to the requests of teachers for a text suitable to this class of students.

The arrangement is such that either Local (Part I), National (Part II), or State Government (Part III) may be studied first. In the work on local and State government it is not expected that the student will *learn* all of the different practices found in the various States, but that he will compare them with those of his own State.

While some of the discussions and many of the suggestive questions are intended to make students realize more completely their duties as citizens, many more having a local bearing will occur to teachers. It is scarcely to be hoped that all of the books and magazines mentioned will be found in any high school library, but the need for supplementary reading is being met through the rapid increase of public libraries. A working library on the subject of civics may be accumulated in a short time if only a few of the books given in Appendix D are procured each year. No attempt has been made to give references to all of the material which has appeared within the past few years.

The ability of the reader and the time to be devoted to the subject have been kept constantly in mind. There may be more supplementary questions and references than can be used by any one class. Should it happen, on the other hand, that more work of this character is desired, the need may be met by reference to similar questions in "Government in State and Nation."

We are under obligation to Miss Carla F. Sargent of Northwestern University Academy who read a large part of the manuscript. We also take this opportunity of acknowledging the assistance given by many teachers of civics, strangers to us, who are using "Government in State and Nation," for their helpful suggestions.

EVANSTON, ILLINOIS,
May 1, 1903.

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PART I.

LOCAL GOVERNMENTS.

CHAPTER I.

THE WORK OF LOCAL GOVERNMENT.

The Preservation of Order. — The first and most important function of any government is the preservation of order. We think of this function most frequently as exercised in the arrest of offenders who violate the law. In fact, most young persons receive their earliest ideas of government by seeing that embodiment of governmental authority, the policeman, or constable. But he is not the only officer who is concerned in the preservation of order. The police officer who makes an arrest cannot punish his prisoner, but must merely hold him until it is decided that he deserves punishment. This is the work of a court, with its justice, or judge, and the jury. If the prisoner is declared guilty, then the police officer executes the orders of the court by collecting a fine or by imprisoning him. We have here illustrated two divisions of governmental authority: (1) the *judicial*, which decides whether the law applies in particular cases; and (2) the *executive*, which carries out the requirements of the law and the orders of the court.

Law-making. — The executive and the judicial officers are both subject to higher authority: the one applies and the other executes *the law*. The framing of the law constitutes the third function of government. This is the work of legislation, carried on by such bodies as the town board, the village board, and the city council. But these law-making bodies do not possess independent authority; they are bound more or less strictly by the opinions of those who elected them to office; *i.e.* the body of voters.

The Three Divisions of Government. — We say, then, that in our country government is based finally upon *the will of the people*. For the expression of their will they choose numerous officers, who may be grouped under three heads, corresponding to the general divisions of government: legislative, executive, and judicial.

Just as it would be impossible for all the voters to take part in applying or interpreting the law, so it is in most cases impossible for them to assemble in a body and make the laws. They generally delegate this work to legislators; but in some States the voters of a town (or township) assemble yearly in town meeting, where all may take part in discussion and in voting.

Roads and Streets. — The preservation of order is but one of the functions of government. In towns where the population is scattered, roads must be built, and it is still more necessary that in villages and cities, where many people live within a small area, streets should be graded and paved and sidewalks maintained. This is an illustration of the way in which, through the machinery of government, people provide themselves with many conveniences that it would be impossible for each citizen to provide for

himself. The legislative bodies already mentioned determine the extent to which these things shall be done: the town board orders the laying out of a new road; the village board or the city council passes ordinances saying what streets shall be paved and what materials shall be used in the work.

Executive Officers, General and Special. — The actual execution of the work involved in public improvements is generally in charge of a special officer, such as the road or street commissioner. But since there are many other matters of public concern that require attention, each under the control of an executive officer, it is necessary that a general officer should be in authority over all of these as the *chief executive* of the local government. This officer is known by various titles, as, in the town the *chairman*, in the village the *president*, and in the city the *mayor*. In any case, he has all or most of the important executive work of government under his control. It is his duty to see that the laws are obeyed, so the police officers are subject to his orders. The chief executive is guardian of the people's interests; for he must see that the minor officers do not injure the public welfare by neglect of duty, and he must defend the public from all persons who would encroach upon its rights.

Let us now consider some of the other ordinary functions of local government.

The Poor. — Poor relief may be mentioned first. How much aid shall be granted to paupers, and how shall it be distributed, are questions that everywhere require attention.

Public Health. — Public health is also an important subject upon which local laws must be enacted. In cities, particularly, the council passes strict regulations for preventing the occurrence of diseases and for checking the spread of such as are contagious. City ordinances are also enacted regulating the construction of sewers and drains. The health commissioner and the city physicians are the particular officers who direct the execution of laws upon these subjects.

Education. — Public education is among the most important of the local government's functions. The free schools which exist everywhere in our country are supported and controlled chiefly by the towns, villages, and cities. In many States, however, there are other divisions, called school districts, which have boards and officers for this purpose.

Other Necessary Functions. — Protection from fire is so important in communities where population is dense that special officers and apparatus must be provided. So, too, streets must be lighted, and a pure water-supply provided.

Parks, Museums, and Libraries. — Besides the functions of government that are readily seen to be necessary, there are others which may not at first appear to be so. We have cities providing parks, with beautiful lawns and flower-gardens; museums, where articles of historical and scientific interest are kept; aquariums and zoological gardens; libraries, with books, magazines, and papers for the free use of all citizens. If one looks closely, he will see a reason in each case why the government undertakes these various enterprises.

Why Taxes are Levied. — We have now to consider a power of government, without which none of the others so far enumerated could be exercised. This is the taxing power. In every instance money must be used by local governments in exercising their functions. Officers, who are agents of the people, depend largely upon taxes for their salaries. Taxes are levied by the legislative bodies that we have found in towns, villages, and cities. Other officers, *assessors* and *treasurers*, determine the amount to be paid by each citizen and collect the taxes. The treasurer also has custody of public money, and pays it out when ordered to do so by the proper authorities.

All of the operations of government are matters of record. While each officer is expected to keep strict account of the operations of his own department, the general records of towns, villages, and cities are kept by the *clerks*.

This general view of local governments may now be summarized in two forms: —

I. The Functions of Local Government.

1. *Protection:* —

   The preservation of order.
   Protection against fire.
   Protection of public health.

2. *Providing Necessities and Conveniences:* —

   Roads — Streets — Sidewalks.
   Water — Lights — Sewers.
   Poor relief — Education.
   Parks — Libraries — Museums.

II. Officers of Local Government.[1]

TOWN.	VILLAGE.	CITY.
Board	Board	Council
Chairman	President	Mayor
Clerk	Clerk	Clerk
Treasurer	Treasurer	Treasurer
Assessors	Assessors	Assessors
Constables	Constables	Police
Road Commissioner	Street Commissioner	Street Commissioner
Justices	Justices	Justices

SUPPLEMENTARY QUESTIONS.

Make a study of your local (town, village, or city) government.

1. Group the officers as legislative, executive, and judicial, respectively.
2. How many different methods are used in paying these officers?
3. Do all the voters ever assemble to make laws? If not, how is the will of the majority expressed?
4. What are some of the local regulations regarding the poor?[2] public health? protection from fire?
5. Who pays for the education that young people receive in the public schools?
6. How much has your local government done toward furnishing things that are not merely conveniences? How do you justify expenditures for these purposes?
7. Does the management of local government excite as much interest among the citizens as it should?
8. In what ways are students directly interested in having efficient local governments?

[1] The list here given is not complete, and the official titles are not the same in all States.

[2] For a general account under this topic, see James and Sanford, "Government in State and Nation," Chapter VIII. Health regulations are discussed in the same work, pp. 98 and 99.

CHAPTER II.

COUNTY GOVERNMENT.

Why there are Counties. — If the local organizations discussed in the preceding chapter could attend to all the interests that citizens have in common, then government would be a much simpler matter than it is. But just as almost every citizen has business and social relations outside of the immediate vicinity in which he lives, so different communities must have political relations with each other if they are to live in harmony. For this and other reasons, which we shall learn presently, county governments are instituted. Their organization and functions correspond quite closely to those of the towns, villages, and smaller cities.

Important County Officers. — The local governments cannot undertake alone the preservation of order or the protection of citizens against criminals. We have, consequently, an important officer, the *sheriff*, who with his deputies has power to make arrests. There is also the judicial side of county governments, seen in the *court*, with its judge. In this court another county officer, called the *district* or *State's attorney*, prosecutes persons who are accused of crime; *i.e.* he finds and presents in the trial evidence of the prisoner's guilt.

Functions of County Government. — Public highways are also matters of more than local concern. When an expensive bridge is to be built, or an important road in which several communities are interested is to be constructed, the county government can best raise the money and manage the work. So, too, in caring for the poor, the county may aid the local governments, or it may assume entire charge of the paupers, and maintain a poorhouse.

The County Board. — It is evident that there must be a legislative body which shall determine the policy of the county in these matters. This is the *county board*, or as it is called in some States, the *county court*. In most States this body is composed of *commissioners*. These are elected by either of two methods: (1) at large, when every voter may vote for the entire number of commissioners; (2) they may be elected from districts into which the county has been divided. In some States the members of the county board are called *supervisors*, and they represent the towns, villages, and wards of cities. Under this system the county board is generally larger than under the commissioner system. There is another difference between the two systems: in the States that have county commissioners, the county government has more extensive functions than in the other States. That is, county government has almost entire control of such matters as roads and poor relief, leaving the local governments with little authority in these directions. On the other hand, where the supervisor system exists, the towns and villages have chief authority in legislating upon these matters, and the county assists or takes only such part as it finds necessary for the general good.

Power of the Board. — The county board holds annual meetings and legislates for the county as a whole. It has charge of the county property, including the court-house, jail, and poorhouse. Since it must provide for the expense of maintaining these buildings, for the salaries of county officers, and for other expenses connected with roads, poor, and other county business, the board must also have the power of levying taxes.

Superintendent of Schools. — Education is another function of government which is not managed solely by the local units. There is a county officer, called the *superintendent of schools*, who has supervisory powers, and he usually examines teachers and certifies to their qualifications.

Register of Deeds. — The *register of deeds*, or *recorder*, is a county officer who keeps records of certain kinds. Among other things, copies of deeds are registered or kept in his office. A person wishing to buy real estate (*i.e.* houses or lands) may, by consulting the records in this office, learn whether the owner has a clear title to the property.

Coroner. — The *coroner* has the duty of holding inquests when persons meet death by violence or in some unexplained way. He may also perform the duties of the sheriff when the latter is incapacitated.

Surveyor. — The county *surveyor* makes surveys at the request of public authorities, as well as for individuals. He keeps the official records of the boundaries of farms and lots.

Clerk and Treasurer. — Of course the county must have its *clerk* and *treasurer*, the customary officers whose duties are, respectively, to keep the records and to handle county moneys.

We may now pass in review the principal features of county government: —

I. Legislative.

1. *County Boards:* —

   Commissioner type
   Supervisor type

2. *Functions:* —

County buildings	Roads and bridges
Poor — Education	Taxation

II. Executive and Administrative Officers.

Sheriff and Deputies	Attorney
Clerk	Superintendent of Schools
Treasurer	
Register of Deeds, or Recorder	Coroner
	Surveyor

(In some States, Assessors and Collectors of Taxes, and Auditors.)

III. Judiciary.

County Court	District Court

Relations of Local Officers to State Law. — There are other reasons than those already given why States are divided into counties. One is because, in the performance

of their duties, the county officers act as agents for the State; that is, they carry out the requirements of State law in their own localities. For example, criminals are brought to trial and punished under State law, but it is administered by local or county officials. So the surveyor, superintendent of schools, register of deeds, and other officers act under State laws. While it seems best to have one general law for the State upon important subjects, it is also the policy of our government to intrust the execution of the law, in most cases, to local rather than to State officials. These officers, being elected by the people of the various localities, feel their responsibility more keenly than if they obtained office by appointment from State authorities. The counties, then, are administrative districts of the State, made for convenience in the management of those governmental matters which are uniform throughout the State. In the control of those matters which affect but one locality, the county authorities are free to follow their own policy, within the limits of State law.

What has been said concerning the relation of the county to the State government is true to a considerable extent concerning the town, village, and city governments. Here, too, elections are held, taxes are collected, and trials are conducted by local officers in accordance with State law. Indeed, it is true that these local divisions owe their existence to State law. Towns are laid out, villages and cities are incorporated, in accordance with the provisions of laws enacted by State legislatures. The State is the source of all the authority exercised by the officers and governing bodies of these local governments.

SUPPLEMENTARY QUESTIONS.

Make a study of your county government.

1. Outline the officers in groups, as on p. 6.
2. Learn the important duties of each officer.
3. Are officers paid by fees or by salaries? Which is the better method?
4. What is the length of the term for which each county officer holds his position?
5. How many members constitute the county board? Are they commissioners or supervisors? When do the meetings of the board occur?
6. Obtain a copy of the county board's report and ascertain what important business has been transacted.
7. What buildings has the county at the county seat? Does it own property elsewhere?
8. What process is followed in laying out a new town? in the incorporation of a village?

REFERENCES.

1. An account of local government in Illinois, Iowa, Michigan, and Pennsylvania is found in Bryce, The American Commonwealth, Vol. I, 572–581 (601–610).[1]
2. The functions of local government are discussed in Holt, Talks on Civics, Chapter I; Ashley, The American Federal State, 397–400; Bryce, The American Commonwealth, Vol. I, 586–589 (616–619).

[1] References to Bryce are given in duplicate; pages enclosed in parentheses refer to the third edition, 1896.

CHAPTER III.

THE ORIGIN OF LOCAL GOVERNMENTS.

The Source of our Local Governments. — The systems of local government which have been described did not spring up spontaneously, nor were they established arbitrarily. There are reasons to be found in the history of their origins which explain many of their details. We shall now see how local government grew in the colonies, for here we have the beginnings of the systems that are in operation to-day.

Everywhere in the colonies the English settlers adapted to their new environment the ancient customs of the mother-country. Differences in physical geography, and in the character and motives of the colonists, caused differences in the resulting local governments. This fact is best illustrated by an account of what took place in New England and in Virginia.

The Method of Settlement in New England. — These colonies were settled by emigrants who came, in the main, from the same classes of Englishmen. The New Englanders, however, were Puritans. The church and its services were a very important part of their daily lives. The requirement of church attendance was one reason for grouping their homes near the meeting-house. Moreover, the region

in which they settled had a stony soil, difficult to cultivate. Their farms required careful cultivation, and therefore could not be very large. The New Englander was content to live near the coast. Access to the interior was not easy, for the rivers, with few exceptions, were short and rapid. The sea fisheries tempted the settlers to remain near the coast, and fishing, with ship-building and commerce, became their important industries.

Town Meeting and Officers. — For these reasons New England was a region of small farms and towns, and the local government which grew up was adapted to these conditions. The voters of each town (or township) met annually, or oftener, in "town meeting." Here their common local affairs were discussed and regulated. The church, the schools, roads, the poor, and many other matters were under the complete control of this meeting, and of the officers elected by the assembled voters. These officers were the selectmen, — a board having general supervision of the town affairs, — the clerk, treasurer, assessors, fence viewers, constables, and numerous others.

The County in New England. — Because the people lived in towns and could most easily regulate their affairs through the machinery of town government, they had no counties whatever at first; but these were soon established, though merely for judicial purposes. The governor appointed justices who held court in each county.

The distinctive features of New England local government, then, were (1) its democratic character, seen particularly in the town meeting; and (2) the fact that nearly

all local affairs were managed by the town government, leaving but one important function, and that judicial in its nature, for the county.

The Settlement of Virginia. — In the colony of Virginia we find conditions that bring about entirely different results in the organization and workings of local government. Here the settlers were not bound by religious or other ties into compact social bodies as the Puritans were. Nature in Virginia held forth many inducements for the settlers to live apart, so that nearly all their attempts to form cities and towns failed. The cultivation of tobacco, of course, explains this to a large extent. The fertile soil and the ease of raising this product led to the formation of large plantations. The broad rivers made progress into the interior remarkably easy, while the necessity for towns as shipping ports was almost completely obviated by the use of private wharves at the various plantations. The rich planters dominated the social and political life of the colony, and local government fell under their control.

The Importance of the County. — Now, of the various local organizations to which the Virginians had been accustomed in England, the one best adapted to their condition in the colony was the county. So they copied the English county and made it their chief organ of local government. The principal governing body was the *county court*, composed of justices appointed at first by the governor of the colony. The court had both legislative and judicial functions. It managed such matters as roads, licenses, and taxation; it also tried civil and criminal cases. Other county

officers were the sheriff and the lieutenant, the latter being commander of the militia.

The Parish and the Vestry. — That part of the Virginia local government which corresponded to the New England town was the *parish;* but it is apparent that few functions remained to be exercised in this, their smallest political organization. The counties were generally composed of several parishes. The governing body of each was the vestry; it had charge of church affairs and of poor relief. The members of the vestry and also the justices of the county court were not elected periodically by the people, as the town officers were in New England. On the contrary, both the vestry and the county court filled vacancies in their own number, without popular election.

This fact serves to illustrate the general truth that local government was democratic in New England and aristocratic in Virginia; in the former colony the mass of voters participated most actively in local government, while in the latter a few men constituted the ruling class. This does not mean that local affairs in Virginia were badly managed, for the leading men were on the whole intelligent and public spirited; and in the years of the Revolution they were among the foremost in the defence of American liberties. In New England, however, it was noticeable that the mass of voters were intelligent and understood the practical management of political affairs — a result which doubtless came largely from their training in the town meeting.

The Three Types of Local Organization. — We have now seen that in New England the town had the most impor-

tant functions of local government, and this is called, therefore, the *town type;* while in Virginia the county absorbed the greater share of governing powers, and there we find the *county type*. Virginia influenced the colonies that lay south of her, so that the county type prevailed also in the Carolinas and Georgia. In the middle colonies there existed both counties and towns, and here there was a much more equal division of powers between these organizations. Hence we call theirs the *mixed* or *township-county type* of local government.

Local Government in the West. — The people who migrated to the new States west of the Alleghanies carried with them the forms of local government which have just been described as growing up in the colonies. This statement needs some modification, for nowhere in the West was the pure town type adopted. Everywhere in the North we find the mixed type, while the Southern States have, in general, the county type. In the latter the county commissioners, elected at large or from precincts, together with other county officers, exercise most of the local powers of government.

Two Forms in the North. — In the greater number of the States that have the mixed type, the county is governed by a board of commissioners elected by either of the methods just mentioned as prevailing in the South. In a few States (such as Michigan, Illinois, and Wisconsin), the county board is composed of *supervisors*, who represent the towns, villages, and wards of the county. Here we find the town meeting, copied after that of New

England or New York, and the town government has more functions than in those States where commissioners compose the town board.

Local Self-government. — Such is the way in which local government has come about in the various States of the Union. Rooted in the systems that Englishmen have developed through the centuries, adapted to the new life and the peculiar conditions of the colonial period, it has spread with the population throughout the land. The different practices of the States testify to the way in which habits persist in government, as in other phases of life. The management of local affairs by the people and their chosen representatives is a sound principle of government which holds a firm place in every part of our country.

SUPPLEMENTARY QUESTIONS AND REFERENCES.

1. Which type of local government exists in your State? Can you account for its origin?
2. Is the system of local government uniform throughout your State? If so, why is this true? If not, can you account for the lack of uniformity?
3. The following references are useful in studying the history of local government: Thwaites, The Colonies, 55–58; Fisher, The Colonial Era, 60, 99, 167; Channing, The United States of America, 37–38; Hart, Formation of the Union, 11–13; Bryce, The American Commonwealth, Vol. I, 561–565 (589–593); Bancroft, History of the United States, Vol. I, 285–286, 449; Ashley, The American Federal State, 390–396.
4. Which is the best type of local government? Is it becoming more common? Bryce, Vol. I, 591–592 (621).

CHAPTER IV.

THE GOVERNMENT OF CITIES.

The General Plan of City Government. — The general framework of city government is not very different from that of the other governmental divisions. There are the legislative, executive, and judicial departments, whose organization and functions are stated in the *charter*, or fundamental law of the city. The city legislature is the *council* or *board of aldermen.* In most cases this body is a single house, though in some cities there are two houses. The members are elected from the wards into which the city is divided. The council may pass ordinances for the government of the city, but it is limited in the extent of its powers by the terms of the city charter.

City Charters granted by Legislatures. — The source of the charter is the State legislature. In most States the constitution provides that the legislature shall pass *general laws* prescribing the framework of all cities, or of the classes into which the cities of a State may be divided, according to their population. These laws also contain regulations that are safeguards against the abuses of municipal government, such as excessive taxation and the accumulation of debts. The requirement of general laws secures uniformity in the essential features of city

government, and it prevents the practice, which is otherwise liable to prevail, of constant interference by State legislatures, in the affairs of certain cities. Such *special laws* should be enacted with great caution, if at all, for when a legislature regulates the affairs of a particular city, it too often does so at the request of persons or corporations having advantages to gain at the expense of the public.[1]

The Mayor. — The chief executive of the city is the mayor. He is the head of the police department and has more or less authority over the other administrative departments to be discussed later in this chapter. In the cases of both mayor and aldermen, the facts concerning their terms, salaries, and other details vary so greatly in different cities that no general description is possible.

The city judiciary includes the ordinary State courts and also special or municipal courts of various degrees.

Other City Officials. — Besides the officers enumerated, every city has its clerk, treasurer, attorney, and assessors. The auditor, or comptroller, is an important official who controls city finances.

Administrative Departments. — The greatest difficulties of city government arise in connection with the numerous administrative departments; these are quite complex in their operation. In large cities the number of officials and the variety of their duties render it almost impossible

[1] In some States where the constitutions require general laws applying to classes of cities, single cities have been put in classes by themselves; so the legislature has virtually governed them by special laws. This practice has been declared illegal in Ohio.

for the average citizen to inform himself concerning these affairs; consequently, opportunities for fraud and mismanagement occur frequently.

Why, it may be asked, is such complex machinery necessary in municipal government? It is because social and industrial conditions (that is, the circumstances under which men live and work) are quite different from those that prevail in towns and villages; and city government must be adapted to these conditions.

Conditions peculiar to City Life. — Let us notice some of the ways in which this is true. (1) The mere fact that population is dense increases the possibility that a citizen may interfere with the rights of his neighbors, even in the conduct of legitimate business. (2) There is greater liability that public health and safety may be endangered, both in the homes and in the industrial establishments of cities, than in less densely settled communities. (3) The opportunities for evil-doing and for concealment that exist in cities draw to them a larger proportion of the vicious classes who need control and suppression. (4) Finally, in cities it is less easy than in the country for each family to supply itself with certain conveniences, such as water, light, and transportation; consequently, the government must regulate to some extent the supply of these necessities.

These are some of the conditions that are peculiar to city life; and we find here the reasons why the government in a city must undertake a large number of functions. At every point the safety of the citizen and his property must be guarded; and in a great many ways the conven-

iences of life must be supplied by the city or under the control of city officials. Thus we account for the fact that city government is complex — the principal source of the difficulties and the evils that we find in connection with administrative departments.

Fire and Police Departments. — The number and the organization of administrative departments vary considerably in different cities. Everywhere we find the police, fire, and health departments. Of these, the fire department is generally the most efficient, for the citizens will not tolerate laxness in the protection of their property. Not so much can be said of the administration of the police and the health departments in most cities. When the selection of police officers is on a purely political basis, the standards are low and the way is opened for police connivance with the violators of the law. Instances are not uncommon where policemen receive, regularly, money payments from law-breakers for protection. Here public interests are betrayed by officers who are sworn to defend them. The detection of this form of corruption is difficult; nevertheless, its continuance in a flagrant form is evidence of public apathy. In a few cities, civil service reform methods are used in the selection of policemen; the passing of an examination and of a physical test is necessary for appointment. This, with a fair system of promotions, should render a police force more like a military organization in its relation to the enforcement of law.

The Health Department. — The department of public health has duties that are of vital importance. Sewerage systems, sanitation, and the water-supply are the chief

objects of its inspection. Health officers also have powers which enable them to detect and prohibit the sale of impure foods. The milk-supply should receive its particular attention, for the purity of this product is an important matter. The enforcement of strict health regulations in the crowded tenement districts of large cities is very difficult; but the neglect of these matters by city officials is nothing less than criminal.

The Department of Streets. — This department, which has in charge the construction of streets and pavements, affects the convenience of every citizen. Here vast sums of money are expended, sometimes wisely, and sometimes under the supervision of officials who are deficient in the technical knowledge required by this kind of work. Opportunity for dishonest handling of public money may be found in the letting of contracts and in the purchase of supplies. Street cleaning has received comparatively little attention in American cities. In this respect we are far behind many European cities. This is because the relation of clean streets to public health, and to civic beauty, is not fully appreciated by the average citizen of our country.

Public Charities. — The administration of public charities is everywhere a difficult matter, and, naturally, its difficulty is greatest in large cities, where we find the greatest number of those who seek relief. Two problems confront the department of public charities: (1) How can it distinguish between those who actually need assistance and those who do not? (2) How can it help those who need assistance temporarily, without weakening their de-

sire to become self-supporting? The same problems must be solved by the citizen in connection with his private charities. In general, it may be said that charity is most judiciously dispensed by private organizations, in charge of trained workers, who can investigate all cases of application for aid.

The Public Schools. — Public education is another department of municipal activity.[1] The expenditure of public money for this purpose is not stinted. The scope of our educational institutions is constantly being enlarged; courses in commerce, manual training, and domestic science are intended to strengthen the practical side of the curriculum. In some cities special schools are maintained for the defective classes and for truants.

Libraries, Parks, and Playgrounds. — The educational advantages furnished by the city are not for the children alone. Public libraries and museums serve adults as well. Recreation is provided by means of parks, public playgrounds, and open-air gymnasiums. These will become more common when their educational influence is more fully appreciated.

Committees or Boards. — The important questions that arise in connection with administrative departments are, how shall they be organized? and how shall the officers who control them be appointed? Two general methods prevail: (1) In the smaller cities the members of the council are grouped into *committees*, which have charge of the various administrative departments. In large cities there are *boards*

[1] This subject is also treated in the chapter on Public School Systems.

or *commissioners*, distinct from the council, and these may be composed of salaried officers. In either case the board may employ a superintendent to take charge of the work under its jurisdiction. The principal criticism which can be offered against this method of managing administrative departments is that responsibility cannot be definitely located. No single member of a board or commission will assume responsibility for mismanagement; and when responsibility is divided among several persons, none of them feels it very strongly.

(2) **Single Heads of Departments.** — As a remedy for this defect, administrative departments in some cities are placed under the control of *single officers*. These are given authority to appoint their subordinates, and they are held strictly accountable for the management of the department. Responsibility is further concentrated in some cities by giving the mayor power to appoint these heads of departments.

Qualifications of City Officers. — Grave questions are involved in these matters of organization, but the efficiency of city government depends in the greatest measure upon the character of the officers who are placed in power. We need to recognize the importance, in city affairs as in private business, of securing officials who are qualified by training and by successful experience to serve the public. Economy and honesty in municipal government cannot be expected when politics alone determines appointments to office. The establishment of civil service examination systems in certain cities[1] is a step in the right direction.

[1] Some of these are New York, Chicago, and Milwaukee.

Public Utilities. — Besides the administrative departments already enumerated, we have in large cities those which control the supply of water, light, and transportation facilities. The industries furnishing these necessities may belong to the city, but in most cases they are owned by individuals and corporations.[1] Even then they should be subject to strict regulation by the city, for several reasons: (1) These industries make use of public streets. The right to do this is granted by the council in a *franchise*. (2) The product that is supplied being in each case a necessity, it is the duty of the city government to protect the citizens from any abuse or inconvenience that may arise in connection with it. (3) In nearly every case the industries in question are monopolies; *i.e.* competition between rival plants is not possible. For this reason the public may suffer either from high rates or from imperfect service.

The Granting of Franchises. — The control of public service corporations, as those are called which supply water, light, and transportation, may be secured in several ways: (1) Franchises should be granted for terms not longer than twenty years. The profits of these industries increase very rapidly with the growth of population; consequently, it should be possible to compel the reduction of rates and the enforcement of other conditions favorable to the public, at the end of a short term of years. (2) Adequate means should be provided for *enforcing* the terms of franchises. Neglect of this makes possible serious abuses. (3) The accounts of the corporations that have franchises

[1] On this topic, see "Government in State and Nation," pp. 36–39.

should be made public, so that the people may know whether the profits are excessive.

The Question of Municipal Ownership. — The opinion is gaining ground that no amount of municipal control will eliminate the evils of private ownership in these industries. Since they are "natural monopolies," it is argued they should be operated by the city government. This opinion is seen to have great weight when we consider the corruption and the lack of attention to the public welfare that accompany the granting of franchises to corporations. The bribery of aldermen and the granting of valuable privileges without compensation are frequent occurrences. On the other hand, the facts that venal officers are elected in our cities, and that they ignore public interests with impunity, raise a very serious question whether they should be intrusted with the management of great industries, such as water and lighting plants and street-car systems.

Reasons for Poor City Government. — Other arguments may be made on both sides of this question of municipal ownership; but there are fundamental reasons why the cities of the United States are, on the whole, poorly governed, which must receive consideration before this question can be settled. The conditions accounting for the evils of municipal government may be briefly stated as follows: (1) City governments are necessarily complex, and, in their administrative departments especially, a multitude of details must receive attention. Citizens find it difficult to understand these transactions and even more difficult to follow them closely. (2) City governments must spend

vast sums of money,[1] and this fact constitutes a standing temptation to dishonest men, both in and out of office. (3) The rapidity with which cities have grown has increased the difficulty of their problems.[2] (4) Individuals and corporations have found it necessary to secure franchises from cities for the operation of important industries; this has opened many opportunities for corruption in city affairs. (5) The presence of large numbers of foreigners[3] who are ignorant of governmental affairs has enabled corrupt politicians to exert undue influence upon the voters in city elections.

The Reform of Municipal Governments. — Having reviewed the principal causes for the evils of municipal government, let us now consider some of the conditions that are necessary for bringing about reforms.

(1) National politics should be entirely divorced from city affairs. It may be impossible to prevent the nomination of candidates by the regular political parties; but within each party local issues, not national, should determine the selection of candidates. At the polls, the voter should cast his ballot independent of party considerations.

(2) Public interest in municipal affairs and the existence of a strong civic pride are conditions that are essential to the election of good officers and to the purity of city government.

(3) Fundamental to the establishment of better munici-

[1] Statistics of expenditures of New York, London, Paris, and Philadelphia are given in "Government in State and Nation," p. 33.

[2] Yet European cities have grown with almost equal rapidity and are, on the whole, well governed. See *ibid.*, p. 43.

[3] See statistics of foreign population in American cities, *ibid.*, p. 40.

pal governments is the recognition by every citizen of his *responsibility*, not only on election day, but on every occasion when his influence can be exerted for the detection of wrong, the punishment of corrupt officials, and the encouragement of better things in all departments of city life. This means unselfishness in one's attitude toward the public welfare; it means willingness to sacrifice time and effort in the public service. The example set by many eminent persons who have devoted themselves unselfishly to the accomplishment of reforms in our great cities may well be imitated by every citizen in the smaller affairs of his city or his ward. And the younger generation of citizens, who are yet students in the public schools, may exert no little influence toward the betterment of the city; and they may aid in the formation of that better public sentiment without which no improvement in our standards of municipal government is possible.

SUPPLEMENTARY QUESTIONS.

Outline for the study of your city government.

1. **Was the city organized under a general law of the State, or was it granted a special charter? Does the legislature enact special laws for the city?**
2. **The mayor: term, salary. What are his principal powers? Should his responsibility be increased?**
3. **The council or board of aldermen: number of members, term of office, manner of election, compensation?**
4. **The municipal courts and judges.**
5. **Administrative departments: make a complete list of these. Are they controlled by boards or by single officers? How do the officers obtain their positions? Are they paid salaries? Of what business does each have charge?**
6. **How are the water, lighting, and street-car plants managed? Do**

you believe in the municipal ownership of any of them? Give reasons for your opinion.

7. How do police officers receive appointment? If an officer fails to enforce an ordinance, what course would you take to secure its enforcement?
8. Are party lines closely adhered to by voters in city elections? Are independent party organizations formed? Are they successful?
9. What can you learn of reform movements that have taken place in your city's history? Give the causes for the success or failure of these.
10. What is the cost of your city government per annum? Is it economically administered? What are the principal items of expense? Has the city other sources of revenue besides taxation?
11. What are the excellent features of your city's government? What are its faults? How may the latter be corrected?
12. Mention some ways in which students can assist in bringing about better conditions in your city.

REFERENCES.

1. What are the general causes of bad city government in the United States? Bryce, Vol. I, 608–614 (637–644).
2. What reform measures have been suggested? Bryce, Vol. I, 614–619 (644–649).
3. National politics in local affairs, Holt, Talks on Civics, 360–366.
4. General accounts of city government, Bryce, Vol. I, Chapters 50 and 52; Ashley, The American Federal State, Chapter 21.
5. Among the most useful books on municipal government are Conkling, City Government in the United States; Wilcox, The Study of City Government; and Devlin, Municipal Reform in the United States.
6. Problems of Municipal Government, N. Am. Rev., 172 : 751–763; Arena, 24 : 589–593. Responsibility in City Government, Forum, 28 : 469–481; Arena, 27 : 39–46. Council and Mayor, Atl. Mo., 88 : 391–397. Municipal Situation in Ohio, Forum, 33 : 430–437. Charter Needs of Great Cities, N. Am. Rev., 170 : 850–856. The Poor in Cities, N. Eng. Mag., 25 : 63–73. Municipal Art, Harper's Mag., 100 : 655–666. Public Untidiness, Forum, 33 : 322–332.

7. Municipal Ownership, N. Am. Rev., 172 : 445–455 ; Arena, 25 : 198–209 ; Forum, 32 : 201–216 ; Atl. Mo., 88 : 463–482 ; Cen. Mag., 60 : 311–312 ; Outlook, 66 : 502–508 ; 70 : 726–727 ; Rev. of R's, 23 : 468–470.
8. Reform of City Governments, Atl. Mo., 87 : 583–587 ; Arena, 27 : 174–178. Chicago, Nation, 70 : 411–412 ; Rev. of R's, 21 : 736–737. The Chicago Voters' League, Outlook, 71 : 495–498.

PART II.

THE NATIONAL GOVERNMENT.

CHAPTER V.

EVENTS LEADING TO THE FORMATION OF THE UNION.

Colonial Relations. — Why was union so long delayed? How was it finally accomplished? These are always questions of great interest to the student of American government. We note the general indifference toward union among the colonies before the Revolutionary War. This may be partially accounted for by the fact that each colony had its own separate government, and was jealous of all outside interference. Lack of good roads and methods of travel made extensive communication between the scattered settlements difficult. Prejudice against strangers, and especially those of a different religious belief, was common. Bonds of sympathy, however, between the citizens of different colonies were not wholly lacking. Their language and customs were mainly English. Their chief desire was to develop a government according to their own plans. Common interests were at times created because of the necessity for providing protection against their Indian, French, and Dutch foes. In

general, we may say, Confederation was early brought about through need for defense, but union has been the result of two centuries and a half of growth.

Union of the New England Colonies, 1643. — A notable attempt was made to form a confederation among the colonies in 1643. It is known as the New England Confederation, and included Massachusetts Bay, New Plymouth, Connecticut, and New Haven colonies. Their united energies were necessary to furnish protection against dangers from the Indians. The Dutch and French also tended constantly to encroach upon their rights. The governing body of this confederation was a board of commissioners. In the annual meetings of the commissioners, two being sent from each colony, questions of war, relations with the Indians, and other matters of mutual interest were discussed. But this central government possessed advisory powers only. The colonies were to provide for their own local government. The confederation became constantly weaker, and was finally dissolved in 1684. Seventy years were to elapse before the call was sent out for a meeting of delegates from all the colonies at Albany, but the influence of the New England Confederacy was felt, no doubt, during that period.

The Albany Congress, 1754. — Open hostilities with their enemies became more and more frequent. From the outbreak of King William's War, in 1689, to 1754, the date of the Albany Congress, there were at least a dozen intercolonial conferences called to consider means for the common defense. Plans for union were also prepared. The most interesting is that of William Penn. In it, the

word "Congress" is used for the first time in connection with American affairs. As the final struggle with France for the possession of America was about to begin, a "Congress" of twenty-five of the leading men from seven different colonies met at Albany. They were called, primarily, for the purpose of making a treaty with the Iroquois Indians. This object secured, the resolution was then unanimously adopted that, "A union of all the colonies is at present absolutely necessary for security and defense." Franklin's famous plan providing for a permanent federation of all the colonies was also adopted. When submitted to the colonies, it failed to receive the ratification of a single one. Nor was it acceptable to the English government. Said Franklin, "The assemblies all thought there was too much prerogative, and in England it was thought to have too much of the democratic."

The Stamp Act Congress, 1765. — After the passing of the stamp act by the English government, the Massachusetts house of representatives invited the other colonial assemblies to send delegations to a general congress. Nine colonies responded by sending twenty-eight men to the congress in New York City, October 7, 1765.[1] During the session of two weeks, these delegates drafted petitions to the English government and declared that the rights of the colonists were the same as those of the natural-born subjects of England. It is noteworthy that representatives had again assembled on the motion of the colonists themselves. The growth of common interests was well ex-

[1] Virginia, New Hampshire, Georgia, and North Carolina sympathized with the movement, but did not send delegates.

pressed by Christopher Gadsden of South Carolina, when he said: "There ought to be no New England man, no New Yorker, known on the continent; but all of us Americans."

Committees of Correspondence. — Nine years were to go by before the meeting of another congress, but the colonists were prepared for a united effort at the end of this period. No sooner were the contents of the Townshend acts of 1767 known, than Massachusetts issued a circular letter to the other colonies, asking for combined action against all such unconstitutional measures. The other colonial assemblies agreed with Massachusetts. Another movement which made the Revolution possible was begun by Samuel Adams. In November, 1772, he prevailed upon the Boston town meeting to appoint a committee which should carry on a correspondence with committees organized in other towns of that colony. Rights and grievances were the chief subjects for consideration. Other colonies adopted this plan. Led by Virginia, the idea was carried one step farther, and in 1773 were formed committees of correspondence between the different colonies. Thus, they were prepared for united action in the First and Second Continental Congresses.

The First Continental Congress, 1774. — When the coercive acts of 1774 had been passed, Massachusetts, now in greatest need, called for a congress of all the colonies. Delegates from all, Georgia[1] excepted, assembled at Philadelphia, September 5, 1774. In the Declaration of Rights, and in the

[1] Georgia was in sympathy with this movement.

adoption of the Articles of Association, they gave full expression to colonial sentiment. They commended the resistance of the people of Massachusetts. They declared that all "America ought to support them in their opposition," if force should be used in carrying out the measures of Parliament.

The Second Continental Congress, 1775.—Before adjourning, the First Continental Congress provided for the meeting of another Congress, in May, 1775, unless the causes for colonial grievances should be earlier removed by the English government. But other measures of repression were quickly passed, and before the Second Continental Congress met, the Battle of Lexington had been fought and the American forces were blockading Boston. This congress convened in Philadelphia May 10, 1775, and continued in session, with adjournments from time to time, until May 1, 1781. All of the colonies were represented. Like previous congresses, this was, at first, merely an advisory body, but necessity compelled it to act as a real government. It took control of military affairs, provided for a currency, threw open American ports to the ships of all nations, and did whatever else the necessities of the time seemed to demand. Having been appealed to for advice, this congress took a most notable position in recommending that new forms of government should be established in the several States. By the year 1777, ten States had framed new constitutions. It furthered independence by appointing a committee to draft resolutions based on the ideas of independence then everywhere present. The Declaration of Independence was the result.

The Articles of Confederation. — Franklin early saw the need for a more effective government than that of a revolutionary assembly. On July 21, 1775, he presented to congress a plan for "perpetual union." Nearly a year elapsed before a committee was appointed to prepare some form for confederation to be entered into between the colonies. Another period of a year and five months was to go by before the report of this committee was adopted by the Continental Congress. It was then submitted to the State Legislatures for approval. After three years and a half, on March 1, 1781, Maryland, the last State, was induced to ratify the Articles of Confederation. The adoption of these Articles is one of the most important events in the history of our Nation. While the Articles of Confederation must always be regarded as a weak instrument of government, we must not forget that the Continental Congress was then working out problems in the province of government that were almost wholly new. The solution, faulty as it was, went far to establish the place of the written Constitution as a basis for government.

Said John Fiske: "Almost everything else in our fundamental institutions was brought by our forefathers in a more or less highly developed condition from England; but the development of the written Constitution, with the consequent relation of the courts to the law-making power, has gone on entirely upon American soil."

Practical Working of the Government. — Conditions soon proved the Articles unsatisfactory. The States were almost independent of the central government. There was no separate executive power to enforce, and no judiciary to interpret the laws. The nation was deep in debt, and

without means for payment. Paper money of the period was worthless, and debtors were rebellious. Disputes between the various States brought them to the verge of civil war. Each State had its own system of duties and imposts, which led to great confusion in commerce. No important resolution could be passed in Congress without the votes of nine States. No amendment was possible, except by the votes of all the States. Congress became constantly weaker as various members resigned to accept positions under State authority. In that most dangerous period of our history, extending from 1783 to 1788, aptly called the "critical period," it became constantly more apparent that government under the Articles of Confederation was a failure. Fortunately, in this hour of gloom, there came forward Washington, Hamilton, Madison, and other leaders, who were prepared, if need be, to make compromises, but who were determined to preserve the elements of the union already secured.

SUPPLEMENTARY QUESTIONS AND REFERENCES.

1. How was the Stamp Act regarded in the different colonies as shown by the addresses made and resolutions offered? Hart, Contemporaries, II, 395–411; Tyler, Patrick Henry (American Statesmen), Chapters 5 and 6.
2. Do you know of other instances in our history where a stamp act has been passed? How was it regarded? In what ways was it different from that of 1765?
3. What was the origin of the Committees of Correspondence and how did they aid in unification? Sloane, The French War and the Revolution, 161, 162; Hart, Formation of the Union, 57.
4. Analyze the Declaration of Independence, and select from it the causes for the Revolution.
5. Why was the adoption of the Articles of Confederation so long

delayed? Hart, Contemporaries, II, 539–543; Fiske, The Critical Period, 93, 95; Walker, The Making of the Nation, 6; Hart, Formation of the Union, 93–95.

6. Read the Articles of Confederation (Appendix *B*).
   (*a*) How was the Congress composed?
   (*b*) The number necessary for a quorum?
   (*c*) The powers of Congress?
   (*d*) Powers of the separate States?
7. Defects of the Confederation. Hart, Contemporaries, II, 591–603.
8. What was the attitude toward union during the period 1783–1788? Were there notable bonds of union even at this time? What other influences have increased this sentiment? Fiske, Critical Period, 55–63; Walker, The Making of the Nation, 7, 8.
9. President Roosevelt said, in an address delivered April 9, 1902, at Charleston, S.C., "When four years ago this nation was compelled to face a foreign foe, the completeness of the reunion became instantly and strikingly evident." What is his meaning? How does the statement illustrate the point emphasized in this chapter, that a common danger produces union?
10. Describe the character of the money used in 1783 and succeeding years. What was its influence? Fiske, Critical Period, 162–186.

CHAPTER VI.

THE CONSTITUTIONAL CONVENTION.

Events Leading to the Constitutional Convention. — Among the many difficulties that arose during the period of the Confederation, were constant disputes between Virginia and Maryland over the navigation of the Potomac River and Chesapeake Bay. Finally, in March, 1785, commissioners from these States met at Alexandria to consider these difficulties. The outcome of the meeting was that Virginia called for delegates from all of the States to meet for the consideration of the commercial relations of the entire country. Delegates from five States only were present at Annapolis on the day appointed, September 11, 1786. Nothing permanent could be accomplished with so few States represented. Before adjourning, however, they agreed to a resolution, framed by Alexander Hamilton, which proposed the calling of a convention at Philadelphia to amend the Articles of Confederation.

The Federal Convention, 1787; Delegates. — All of the States, Rhode Island excepted, were finally represented in this, one of the most notable conventions in the history of the world. Among the fifty-five delegates assembled were many who had already been conspicuous in public affairs. They were the choice men of the States from which they

came. Twenty-nine of the number were university men. Washington and Franklin were present, and Washington was unanimously chosen president of the convention. Neither of these men took an active part in the debates; but their presence gave inspiration to the other members, and they had untold influence at critical times. Among the ablest members were Alexander Hamilton of New York; James Madison of Virginia; Oliver Ellsworth and William S. Johnson of Connecticut; James Wilson and Gouverneur Morris of Pennsylvania; Rufus King of Massachusetts; and Charles C. Pinckney of South Carolina.

Our Knowledge of the Convention. — The Convention lasted from May 25 to September 17, 1787. The sessions were secret. Fortunately we are not dependent on the Secretary's report alone for our knowledge of the meetings.[1] Mr. Madison seemed to understand the full meaning of the Convention from the first, and decided to give an accurate account of the proceedings. He wrote: "Nor was I unaware of the value of such a contribution to the fund of materials for the history of a Constitution on which should be staked the happiness of a people great even in its infancy, and possibly the cause of liberty throughout the world." His notes were purchased by the government from Mrs. Madison in 1837, for the sum of thirty thousand dollars. They were published as "Madison's Journal of the Constitutional Convention."

Plans for a Government; Virginia Plan. — The magnitude of the labors of this Convention can be understood only when we read the report of the discussions as given by Madison. It was at once determined that no time should be lost in patching up the Articles, but that a new Constitution should be formed. Two sets of resolutions were early submitted, each setting forth a plan of government.

[1] It was published in 1819 as a part of Volume I of "Elliot's Debates."

The Virginia plan was largely the work of Mr. Madison. It provided for the establishment of a national government with supreme legislative, executive, and judicial powers. The legislative power was to be vested in a Congress of two separate houses. The executive was to be chosen by both houses of Congress, and the judiciary by the Senate. Representation in both houses of Congress was to be based on population or the contributions to the support of the government. This scheme was fiercely attacked by the delegates from the small States, for it would clearly give control into the hands of the more powerful States.

The New Jersey Plan. — The New Jersey plan, presented by Mr. Patterson of that State, was agreed upon by the members from Connecticut, New York, New Jersey, Delaware, and Maryland. This Small State plan, so called, provided for a continuance of the government under the Articles of Confederation. They were to be revised in such a manner as to give Congress the power to regulate commerce, to raise revenue, and to coerce the States. The Small State party insisted that the Virginia plan, if adopted, would destroy the sovereignty of the States. They would rather, they said, submit to a foreign power than be deprived of equality of suffrage in both branches of the Legislature. Madison, Wilson, King, and other leaders of the Large State party declared that the basis for the new government was to be the people and not the States; that it would be unfair to give Delaware as many representatives as Virginia or Pennsylvania. After many days of fruitless debate, a compromise, sometimes called the "First Great Compromise," was presented and finally adopted.

This provided that the House of Representatives should be composed of members elected on the basis of population. In the Senate, large and small States were to be equally represented.

The Slavery Problem; Second Compromise. — How was the number of the representatives to be found? Were slaves to be counted as a part of the population? A heated debate arose over these questions. The delegates from South Carolina maintained that slaves were a part of the population and as such should be counted. The answer was made that slaves were not represented in the Legislatures of that and other States; that slaves were regarded in those States merely as so much property, and as such ought never to be represented. Finally, when it seemed that the work of the Convention must fail, a compromise, known as "the three-fifths compromise," was accepted. This provided that five slaves were to be counted as three free persons.

The Third Compromise. — Slaves and commerce furnished the basis for a third compromise. South Carolina and Georgia desired to have the foreign slave-trade continued. Some of the other Southern States and the Northern States generally were opposed. The New England members were anxious that the National government should have complete control of foreign commerce. This was resisted by some of the Southern delegates, who feared that the importation of slaves might thereby be prohibited. Finally, a compromise was agreed upon which gave Congress power over foreign and interstate commerce, but forbade any act which might prohibit the importation of

slaves before 1808. It was also agreed that a tax of ten dollars each might be laid on all slaves imported. While the entire Constitution may be said to be made up of compromises, the agreement upon these three rendered the further work of the Convention possible.

Signing the Constitution. — Gouverneur Morris was selected to give the document its final form. The clear, simple English used is due largely to him. After thirty-nine members, representing twelve different states, had signed the Constitution, the Convention adjourned. While the last signatures were being written, Franklin said to those standing near him, as he called attention to a sun blazoned on the back of the President's chair: "I have, often and often, in the course of the session, and the vicissitudes of my hopes and fears as to its issue, looked at that behind the President, without being able to tell whether it was rising or setting; but now, at length, I have the happiness to know that it is a rising and not a setting sun."

Difficulties of Ratification. — The Convention submitted the Constitution to Congress. Here, for eight days, it was attacked by its opponents. Finally, Congress passed it on to the State Legislatures, to be sent by them to State conventions. This process of ratification was provided for by Article VII of the Constitution, as follows: *The ratification of the conventions of nine States shall be sufficient for the establishment of this Constitution between the States so ratifying the same.*"

The period included between September 28, 1787, when Congress transmitted the Constitution to the State Legislatures, and June 21, 1788, when New Hampshire, the

last of the necessary nine States, ratified, was one of the most critical in our history. Political parties, in a truly National sense, were formed for the first time. Among the leaders who defended ably the views of those who opposed the ratification of the Constitution were Patrick Henry, Richard Henry Lee, Elbridge Gerry, and George Clinton. It was urged that there was no Bill of Rights,[1] that the President would become a despot, and that equality of representation in the Senate was an injustice to the larger States. "Letters from the Federal Farmer," prepared for the press of the country by Richard Henry Lee, set forth clearly the views of the Anti-Constitutional party.

"The Federalist." — No influence was more noteworthy in bringing about ratification than a series of political essays afterward collected under the name of "The Federalist." It is considered to-day the best commentary on the Constitution ever written. Alexander Hamilton originated the plan, and wrote 51 of the 85 numbers. James Madison wrote 29, and John Jay 5.

The Influence of Washington. — Washington was again a giant in his support of the Constitution. In a letter to Patrick Henry he early sounded an effective note of warning against anarchy, expressing the very fear that finally led many in the conventions to vote for the Constitution. He wrote: "I wish the Constitution which is offered had

[1] A Bill of Rights, in which the idea of the rights of man were set forth, was a significant part of nearly all the State constitutions. Englishmen, generally, had been familiar with the formal statement of these principles since 1689, when William and Mary accepted the Declaration of Rights as a condition of their receiving the crown of England. During the same year, Parliament gave the Declaration of Rights the form of a statute, under the name of the Bill of Rights. Among other rights it demanded that the king, without the sanction of Parliament, should not raise an army, secure money, or suspend the laws; also, that the right of petition, freedom in the exercise of religion, and equality under the laws were to be granted all subjects.

been more perfect; but it is the best that could be obtained at this time, and a door is open for amendments hereafter. The political concerns of this country are suspended by a thread. The convention has been looked up to by the reflecting part of the community with a solicitude which is hardly to be conceived, and if nothing had been agreed upon by that body, anarchy would soon have ensued, the seeds being deeply sown in every soil."

Ratification Secured. — Delaware, the first State, ratified December 6, 1787, without a dissenting vote. Pennsylvania, New Jersey, Georgia, and Connecticut followed quickly. Much depended on the action of the Massachusetts convention. After prolonged debate, the delegates were finally influenced by the statement that amendments might be made, and they ratified the Constitution by a vote of 187 to 168. The ninth State was secured in the ratification by New Hampshire, June 21, 1788. It was not until November 21, 1789, however, that North Carolina voted to accept the Constitution. Rhode Island held out until May 29, 1790.

The New Government put into Operation. — When the ratification of the ninth State had been secured, Congress appointed a special committee to frame an act for putting the Constitution into operation. It was enacted that the first Wednesday in January should be the day for appointing electors; that the electors should cast their votes for President on the first Wednesday in February, and that on the first Wednesday of March the new government should go into operation. It was not until April 1 that a quorum was secured in the House of Representatives, and in the Senate not until April 6. The electoral votes were counted in the presence of the two houses on

April 6.[1] The inauguration of President Washington did not take place, however, until April 30.

Origin of the Constitution. — Before making a study of this epoch-making document, let us inquire briefly as to its origin. An analysis of the Constitution shows that there are some provisions which are new, and that English precedent had an influence. The main features, however, were derived from the constitutions of the States with whose practical workings the delegates were familiar. The following well-known statement is an excellent summary: "Nearly every provision of the Federal Constitution that has worked well is one borrowed from or suggested by some State constitution; nearly every provision that has worked badly is one which the convention, for want of a precedent, was obliged to devise for itself."

Authority and Objects of the Constitution. — It was evidently the intention of the framers of the Constitution to found a government deriving its authority from the people rather than from the States. The purposes for which this was done are set forth in the following enacting clause, commonly called the Preamble: —

"*We, the people of the United States, in order to form a more perfect union, establish justice, insure domestic tranquillity, provide for the common defense, promote the general welfare, and secure the blessings of liberty to ourselves and our posterity, do ordain and establish this Constitution for the United States of America.*"

[1] New York did not choose electors. North Carolina and Rhode Island, as we have seen, had not ratified the Constitution.

This clause was attacked vigorously by the opponents of the Constitution, and especially in the Virginia and the North Carolina conventions. Said Patrick Henry: "And here I would make this inquiry of those worthy characters who composed a part of the late Federal Convention. . . . I have the highest veneration for those gentlemen; but, sir, give me leave to demand what right had they to say, 'We, the people'? . . . Who authorized them to speak the language of, We, the people, instead of, We, the States? If the States be not the agents of this compact, it must be one great, consolidated, national government of the people of all the States." It was argued, on the other hand, by Randolph, Madison, and others, that the government, under the Articles of Confederation, was a failure, and that the only safe course to pursue was to have a government emanating from the people instead of from the States, if the union of the States and the preservation of the liberties of the people were to be preserved.

SUPPLEMENTARY QUESTIONS AND READINGS.

1. For an account of the members of the Convention, see Hart, Contemporaries, III, 205–211.
2. For the contributions of the individuals and the classes of delegates, see Walker, The Making of the Nation, 23–27; Fiske, Critical Period, 224–229.
3. Discuss the peculiar conditions in Massachusetts. Give the arguments presented. Walker, 56–57; Fiske, Critical Period, 316–331.
4. How was the Constitution regarded in Virginia? Walker, 58, 60; Fiske, Critical Period, 334–338.
5. What was the attitude of the New York Convention toward the Constitution? Fiske, Critical Period, 340–345.
6. What objections were made against the Constitution in North Carolina? Hart, Contemporaries, III, 251–254.

7. What would have been the status of North Carolina and Rhode Island if they had not ratified? Walker, 73, 74; Hart, Formation of the Union, 132, 133.
8. Show the influence of the State constitutions on the Federal Constitution. James and Sanford, Government in State and Nation, 135.
9. For other questions on the material in this chapter, see Fiske, Civil Government, 211, 212; James and Sanford, Government in State and Nation, 136, 137, 138.

CHAPTER VII.

ORGANIZATION OF THE LEGISLATIVE DEPARTMENT.

ARTICLE I.

A Congress of Two Houses. — Section 1. *All legislative powers, herein granted, shall be vested in a Congress of the United States, which shall consist of a Senate and House of Representatives.*

In the Constitutional Convention, the Pennsylvania delegates were the only ones who objected to the formation of a legislative body having two houses. It was believed that with two houses one would be a check upon the other, and that there would be less danger of hasty and oppressive legislation. Another reason for the formation of a Congress having two houses was that the colonists were familiar with this kind of Legislature. It existed in all of the States, Pennsylvania and Georgia excepted.

Term of Members and Qualifications of Electors. — Section 2, Clause 1. *The House of Representatives shall be composed of members chosen every second year by the people of the several States, and the electors in each State shall have the qualifications requisite for electors of the most numerous branch of the State legislature.*

A short term for representatives was agreed upon, for it was the design to make them dependent on the will of

the people. The question frequently arises, therefore, ought representatives to be compelled to receive instructions from those who elect them? May we not agree that our legislation would often be more efficient if the welfare of the Nation were considered, rather than what seems, for the moment, to be only the concern of a district or even a State? Securing the best interests of all may mean at times, also, the sacrifice of mere party principles.

Who may vote for Representatives. — By the words *people* and *electors* is meant voters. With the desire to make the House of Representatives the more popular branch, it was decided to grant the right of voting for a representative to any person who might be privileged to vote for a member of the lower house of the Legislature of his State. The freedom of a State to determine what these qualifications are, is limited only by the provisions of the fifteenth amendment: —

Amendment XV. *The right of citizens of the United States to vote shall not be denied or abridged by the United States, or by any State, on account of race, color, or previous condition of servitude.*

This amendment was proposed by Congress in February, 1869, and was declared in force, March 30, 1870. It was for the purpose of granting more complete political rights to the negroes, recently declared, by Amendment XIV, to be citizens.

Method and Time of choosing Representatives. — The Constitution prescribes that representatives shall be elected by the people. Congress has provided that represen-

tatives shall be chosen on the Tuesday next after the first Monday in November of the even-numbered years.[1] Congress has also decreed that representatives shall be chosen by districts; but the State Legislature has complete control of the districting of its State. However, Congress has declared that these districts shall be composed of contiguous territory, and contain, as nearly as practicable, an equal number of inhabitants. Now, usage has defined territory to be contiguous when it touches another portion of the district at any one point. As a result of this questionable interpretation, some States have been divided into districts of fantastic shapes, to promote the interests of the party having the majority in the State Legislature.[2]

Proportional Representation. — Proportional representation, which is coming into favor in these days, would doubtless do much toward remedying this abuse. According to the present system of electing representatives by districts, large minorities of voters are not represented. Numerous plans of "Proportional Representation" have been advocated. One such plan is in operation in Illinois[3] for the election of members to the State house of representatives. Each district elects three members on a general ticket. The voter may give one vote to each candidate, or one and a half votes to each of two candidates, or three votes to a single candidate. Therefore, the minority, by concentrating their votes on one candidate, may elect a representative to the Legislature, when under the district system they would not be represented.

Qualifications of Representatives.— Section 2, Clause 2. *No person shall be a representative who shall not have*

[1] The only exceptions to this rule are: Oregon holds its election on the first Monday in June; Vermont, on the first Tuesday in November; and Maine, on the second Monday in September.

[2] This process is called "gerrymandering." See, also, "Government in State and Nation," pp. 153, 154.

[3] On Proportional Representation, read "Government in State and Nation," pp. 13, 14, 15.

attained to the age of twenty-five years, and been seven years a citizen of the United States, and who shall not, when elected, be an inhabitant of that State in which he shall be chosen.

In the original States there was great diversity of qualifications for members of the lower houses of their Legislatures. But some uniform system was necessary for the National organization, and so the few simple requirements of this clause were introduced. It is understood, however, that the States may not add other qualifications. While a representative must be an inhabitant of the State in which he is chosen, he need not, so far as the Constitution requires, be an inhabitant of the district. But the instances have been few in which a member of the House has not been also an inhabitant of the district which he represents. According to the English system of representation, a member of the House of Commons frequently represents a borough or county in an entirely different part of the kingdom from that of which he is an inhabitant.

May the House refuse to admit a person duly elected and possessing the necessary qualifications ? This question arose in the 56th Congress, in the case of Brigham Roberts of Utah. He was finally excluded.

Present System of apportioning Representatives.— Section 2 of Amendment XIV contains the rule of apportionment that is now in operation. This became a part of the Constitution, July 28, 1868.

Representatives shall be apportioned among the several States according to their respective numbers, counting the whole number of persons in each State, excluding Indians not taxed. But when the right to vote at any election for

the choice of electors for President and Vice-President of the United States, representatives in Congress, the executive and judicial officers of a State, or the members of the legislature thereof, is denied to any of the male inhabitants of such State, being twenty-one years of age, and citizens of the United States, or in any way abridged, except for participation in rebellion or other crime, the basis of representation therein shall be reduced in the proportion which the number of such male citizens shall bear to the whole number of male citizens twenty-one years of age in such State.

The second sentence of this section was framed in the belief that the States, rather than lose a portion of their representatives in Congress, would grant the right of suffrage to negroes already declared to be citizens. But proportional reduction of representatives was never put into practical operation, for before the next apportionment of representatives, Amendment XV became a part of the Constitution, and negro suffrage was put on the same basis as white. However, the enforcement of Section 2 of Amendment XIV has been strongly urged in our own time. This is because it is estimated that many thousand negroes have been disfranchised through the restrictions on the right of suffrage found in the recent constitutions of several Southern States.

The "Indians not taxed" doubtless refers to those Indians who still maintain their tribal relations or who live on reservations in the several States. Their number, according to the census of 1900, was 44,617.

Early Apportionment. — The number of representatives to which each of the States was originally entitled is given

in Section 2, Clause 3, of the article we are now considering as follows: —

Representatives and direct taxes shall be apportioned among the several States which may be included within this Union, according to their respective numbers, which shall be determined by adding to the whole number of free persons, including those bound to service for a term of years, and excluding Indians not taxed, three-fifths of all other persons. The actual enumeration shall be made within three years after the first meeting of the Congress of the United States, and within every subsequent term of ten years, in such manner as they shall by law direct. The number of representatives shall not exceed one for every thirty thousand, but each State shall have at least one representative; and until such enumeration shall be made, the State of New Hampshire shall be entitled to choose three, Massachusetts eight, Rhode Island and Providence Plantations one, Connecticut five, New York six, New Jersey four, Pennsylvania eight, Delaware one, Maryland six, Virginia ten, North Carolina five, South Carolina five, and Georgia three.

The three-fifths rule was rendered void by the adoption of Amendment XIII, which abolished slavery, since there were no longer the "other persons." That part of the clause which provides for the laying of direct taxes is still in force.

The Census. — In order to carry out the provision of the Constitution, an "actual enumeration" was made in 1790. Since that date there has been a census every ten years. The taking of the census and the compilation and publication of the statistics connected with it are under the supervision of the director of the census. Work on the twelfth census was begun June 1, 1900, and required over 50,000 enumerators, 2500 clerks, and 2000 special agents. The cost was some

$12,000,000. The most important volumes found in the report are those on population,[1] manufactures, and agriculture. The taking of the census will, in the future, be more economical and efficient because of the establishment of the permanent census bureau by an act of Congress in 1902.

Ratio of Representation. — The Constitution provided that there should be 65 members in the first House of Representatives. After the first census, Congress agreed that there should be one representative for each 33,000 of the population. This gave a house with 105 representatives. From that time the ratio of representation has been changed every ten years. Otherwise, with the rapid increase in population, the House would soon become too large. The ratio adopted by the act of January 12, 1901, was one representative to 194,182 people.[2] After March 4, 1903, therefore, there will be at least 386 members in the House, if the membership is complete.[3]

Members from New States. — Should a new State be admitted after the apportionment is made, its representatives are always additional to the number provided for by law. The Constitution provides that each State shall have at least one representative. If this provision had not been made, the States of Delaware, Idaho, Nevada, and Wyoming, each having a smaller population than the ratio adopted in 1901, would not be represented.

Territorial Delegates. — The organized Territories are each entitled to send a delegate to the House of Representatives. He is allowed to speak on any question that has to do with his Territory, but may not vote.

[1] The population of the United States, according to the first census, was 3,929,214. The population in 1900 was 76,303,387.

[2] For the method of apportionment, see "Government in State and Nation," p. 145.

[3] The number of members in the English House of Commons is 670; in the French Chamber of Deputies, 584; and in the German Reichstag, 396.

Vacancies. — Section 2, Clause 4. *When vacancies happen in the representation from any State, the executive authority thereof shall issue writs of election to fill such vacancies.*

When a vacancy occurs in the representation from any State on account of death, expulsion, or for other cause, it is made the duty of the Governor of the State in which the vacancy exists to call for a special election in that district to choose a representative for the remainder of the term.

Officers. — Section 2, Clause 5. *The House of Representatives shall choose their Speaker and other officers, and shall have the sole power of impeachment.*

The Speaker, who is the presiding officer, has always been a member of the House, but the Constitution does not say that he *shall* be. The other officers are the Clerk, Sergeant-at-Arms, Doorkeeper, Postmaster, and Chaplain, none of whom is a member of the House.

Number and Term of Office of Senators. — Section 3, Clause 1. *The Senate of the United States shall be composed of two senators from each State, chosen by the legislature thereof for six years, and each senator shall have one vote.*

As we have seen, the provision that there should be two senators from each State was the result of a compromise. Consequently New York and Pennsylvania have but the same number as Delaware and Nevada.[1] The term of six years for senators was likewise a compromise measure. There were members of the convention who favored three

[1] The Senate now contains 90 members; the English House of Lords, 560; and the French Senate, 300.

years; others wanted nine years, and Hamilton desired that the term should be during good behavior. Many States have practically lengthened the prescribed term by the wise policy of returning acceptable senators for more than one term. Although elected by the State Legislature, senators do not vote by States. The senators from a State may, and often do, vote on opposite sides of a question.

Qualifications of Senators. — Section 3, Clause 3. *No person shall be a senator who shall not have attained to the age of thirty years, and been nine years a citizen of the United States, and who shall not, when elected, be an inhabitant of that State from which he shall be chosen.*

The reasons for requiring different qualifications in senators from those of representatives is expressed in "The Federalist" as follows: "The propriety of these distinctions is explained by the nature of the senatorial trust, which, requiring greater extent of information and stability of character, requires at the same time that the senator should have reached a period of life most likely to supply these advantages." The attitude of Americans toward the Senate to-day differs from that manifest during the first quarter century of our history. Has the Senate degenerated? is a question frequently asked. The presence in that body of numerous millionaires has also excited unfavorable comment. There have been two instances only in which senators have been disqualified because of inadequate citizenship.

Times and Places for electing Senators and Representatives. — Section 4, Clause 1. *The times, places, and man-*

ner of holding elections for senators and representatives shall be prescribed in each State by the legislature thereof; but the Congress may at any time, by law, make or alter such regulations, except as to the place of choosing senators.

It is desirable that Congress should have the *final* authority in providing for the election of its own members, because the very existence of the Union might otherwise be left, at times, to the whims of the State Legislatures. Congress, in 1866, provided for the system now in use.

The Legislature, chosen next before the expiration of the term of a senator, proceeds to elect his successor on the second Tuesday after its organization. On that day each house must vote separately by a *viva voce* vote. The two houses are required to meet in joint assembly at noon the following day, when the results are read. If the same person has received a majority of the votes in both houses, he is elected. If no person have such majority, the joint assembly must take a *viva voce* vote. The person receiving a majority of such votes is elected, providing a majority of all the members elected to both houses are present and voting. Should there still be no election, the joint assembly must meet at noon on each succeeding day, and take at least one vote until a senator shall have been chosen. The procedure is the same in the case of a vacancy which has occurred before the Legislature has assembled. When the vacancy happens during the session of the Legislature, it must proceed in the same way the second Tuesday after receiving notice of the vacancy.

Election of Senators by Popular Vote. — Shall United States senators be elected by popular vote? This question has been much discussed in recent years. Deadlocks and bribery in State Legislatures have done much to bring it into prominence. Besides, there is a growing feeling that the people are quite as competent to elect United States senators as they are to choose other officers. The House of Representatives, on several occasions, has passed a resolution favoring an amendment to the Constitution that will secure this result; but each time it has failed in the Senate. At the beginning of the year 1903 there were twenty-seven of the State Legislatures on record as in favor of this reform. That the people generally desire such an amendment

cannot be questioned, if we may judge by the vote cast in Illinois in the November election of 1902. 451,319 voters favored popular election of senators; 76,975 opposed.

Vacancies in the Senate. — As provided in Clause 2, of Section 3 of the article we are considering, a vacancy occurring in the Senate during the recess of the Legislature of any State may be filled, temporarily, through an appointment made by the Governor of that State. A senator thus appointed holds his office until the Legislature meets. In case that body fails to elect his successor, he retains the office until the end of the session of the Legislature. But the State will then lack one member in the Senate, because the governor may not, by appointment, fill a vacancy resulting from the failure of the legislature to elect.[1]

Classes of Senators. — Section 3, Clause 2. *Immediately after they shall be assembled in consequence of the first election, they shall be divided, as equally as may be, into three classes. The seats of the senators of the first class shall be vacated at the expiration of the second year; of the second class, at the expiration of the fourth year; and of the third class, at the expiration of the sixth year; so that one-third may be chosen every second year, and if vacancies happen by resignation or otherwise, during the recess of the legislature of any State, the executive thereof may make temporary appointments until the next meeting of the legislature, which shall then fill such vacancies.*

This provision makes the Senate a permanent body, since only one-third of the members go out of office every two years. In the first session of the first Congress the

[1] For a test case, see "Government in State and Nation," p. 149.

senators were divided into three classes. It has been the custom to place the senators from new States in different classes. This is done in order to preserve, so far as possible, the equality of numbers in each class. Besides, a State is thus enabled to keep one man of experience in the Senate. When a new State is admitted, the senators from that State determine by lot, drawn in the presence of the Senate, which classes they are to enter. Thus when Utah was admitted, her Senators were assigned to the two and four year classes, neither of them serving the full term of six years.

President of the Senate. — Section 3, Clause 4. *The Vice-President of the United States shall be President of the Senate, but shall have no vote unless they be equally divided.*

Other Officers. — Section 3, Clause 5. *The Senate shall choose their other officers, and also a President pro tempore, in the absence of the Vice-President, or when he shall exercise the office of President of the United States.*

The Vice-President of the United States is the presiding officer of the Senate. He cannot take part in debates, and has no vote unless there be a tie. In marked contrast with the power of the Speaker, he cannot name the committees, and has no direct authority in legislation. Indeed, the office is regarded as one of so little influence that it is sometimes difficult to secure, as candidates for it, men of recognized prominence.

The other officers of the Senate are Secretary, Chief Clerk, Sergeant-at-arms, Chaplain, Postmaster, Librarian, and Doorkeeper, none of whom is a member of the Senate. It is desirable, in the absence of the Vice-President, that

the Senate should have a presiding officer. At the opening of the session, therefore, that body chooses from its own members a president *pro tempore*. He may vote on any question, but cannot cast the deciding vote in case of a tie.

When Congress Meets. — Section 4, Clause 2. *The Congress shall assemble at least once in every year, and such meeting shall be on the first Monday in December, unless they shall by law appoint a different day.*

As we have already seen, representatives are elected for a term of two years. This period defines the length of a Congress. Representatives, as we know, are chosen on the first Tuesday after the first Monday in November. Now the term of office of a representative begins legally on the fourth of March succeeding the time of his election.[1] Except in the case of a special session, this term does not really begin until the first Monday of the following December, or thirteen months after the election. It would seem desirable that the members should be given an earlier opportunity to express themselves on the issues upon which they have been chosen.

Sessions of Congress. — Each Congress has two regular sessions. The first is called the "long session," for its length is not determined by a definite date of adjournment. It usually lasts until midsummer and may not extend beyond the first Monday in December, the time fixed for the beginning of the next session. The second, or "short session," cannot extend beyond 12 M. of March 4, the time

[1] The limits of the 58th Congress will be March 4, 1903, to March 4, 1905.

set for a new Congress to begin. The President may convene Congress in special session.

Organization of Congress. — The first Monday in December of each second year is a notable day in Washington, for the formal opening of a new Congress is regarded as an important event. The House of Representatives must go through the entire process of organization. To the Clerk of the preceding House are intrusted the credentials of the members, and from these he makes out a list of those who are shown to be regularly elected. At the hour of assembly he calls the roll from this list, announces whether or not a quorum is present, and states that the first business is to elect a Speaker. After his election, the Speaker takes the oath of office, which is administered by the member who has had the longest service in the House. The Speaker then administers the oath to the members by States. The election of the Chief Clerk and the other officers follows, after which the House is said to be organized.

The Senate is a "continuing body," and no formal organization is necessary. At the opening of a new Congress the Vice-President calls the Senate to order and the other officers resume their duties. After the President *pro tempore* has been chosen, the newly elected members are escorted to the desk in groups of four, and the oath is administered by the President of the Senate. Each house, when organized, notifies the other of the fact, and a joint committee of the Houses is appointed to wait upon the President and inform him that quorums are present and are ready to receive any communication he may desire to send.

The House of Representatives occupies a large hall in the south wing of the Capitol. The desks of the members are arranged in a semicircle about that of the Speaker, with the Republicans on his left and the Democrats on his right. When a member gains the floor, he speaks from his own desk or from the space in front of the Speaker's desk. Unless the question is one of importance, but little attention is paid to the course of debate. Consequently a visitor can hear only with great effort because of the constant din produced by the shuffling of papers, clapping of hands for pages, etc. The real work of Congress, as we shall see, is done in committees. The Senate occupies a hall at the opposite end of the Capitol. It is, of course, much smaller than that occupied by the House, but is similarly arranged. In general, the proceedings on the floor of the Senate are conducted in a much more orderly manner than is usual in the House.

SUPPLEMENTARY QUESTIONS AND REFERENCES.

1. What is the number of the present Congress? Give the dates for the beginning and end of each session.
2. In the States which have woman suffrage, may women vote for representatives?
3. It is not required by law that a representative shall reside in the district that he represents, but it is an established custom. What are its advantages and disadvantages? Compare with the English practice. Bryce, American Commonwealth, I, Chapter 19.
4. Were the States mentioned on p. 54 justified in the enactment of their suffrage laws?
5. Ought Section 2, Amendment XIV, to be enforced? Rev. of R's, 22: 273–275, 653, 654; 24: 649–651; Forum, 31: 225–230; 32: 460–465; N. Am. Rev., 168: 285–296; 170: 785–801; 175: 534–543; Outlook, 69: 751.
6. State the points of likeness and of difference between the House of Representatives and the House of Commons. N. Am. Rev., 170: 78–86.
7. Give the number of representatives to which your State is entitled. Was the number increased in the last apportionment? How large is your Congressional district? Population?
8. Compare the area of your district with that of other districts in your State; also with the population of other districts. Compare the number of votes cast for Representative in your district with the number cast in districts of other States in different sections of the country. How do you account for the variation? See New York World Almanac.
9. Some interesting facts connected with the apportionment of 1901 are given in the Forum, 30: 568–577.
10. For the Reapportionment Law of 1901, see Outlook, 67: 136.
11. For accounts of the methods by which a census is taken, see American Census Methods, Forum, 30: 109–119. Census of 1900, N. Am. Rev., 170: 650–652.
12. Who are some of the best-known representatives and senators? For what reasons are they noted?
13. Who are the senators from your State? When was each elected?

14. Give the names of the Speaker and of the President *pro tempore*.

15. Has the Senate degenerated? Should senators be elected by popular vote? Outlook, 67: 559, 604, 774[a]; 73: 277–285, 386–392. For other references, see James and Sanford, Government in State and Nation, p. 157.

CHAPTER VIII.

POWERS AND DUTIES OF THE SEPARATE HOUSES.

I. Impeachment.

Article II, Section 4. *The President, Vice-President and all civil officers of the United States, shall be removed from office on impeachment for, and conviction of, treason, bribery, or other high crimes and misdemeanors.*

Article I, Section 2, Clause 5. *The House of Representatives shall . . . have the sole power of impeachment.*

Section 3, Clause 6. *The Senate shall have the sole power to try all impeachments. When sitting for that purpose, they shall be on oath or affirmation. When the President of the United States is tried, the Chief Justice shall preside; and no person shall be convicted without the concurrence of two-thirds of the members present.*

Section 3, Clause 7. *Judgment in cases of impeachment shall not extend further than to removal from office and disqualification to hold and enjoy any office of honor, trust, or profit under the United States; but the party convicted shall nevertheless be liable and subject to indictment, trial, judgment, and punishment according to law.*

There have been but seven impeachment trials in the history of our government. Section 4 of Article II declares who may be impeached. The expression "civil officer"

does not include military and naval officers. They are subject to trial by court-martial. Members of Congress may not be impeached, since the Constitution authorizes each house to bring to trial and punish its own members. Clause 5 of Section 2, and Clauses 6 and 7 of Section 3, Article I, give the method of procedure against an officer who may be charged with "treason, bribery, or other high crimes and misdemeanors." The articles of impeachment preferred by the House of Representatives correspond to the indictment in a criminal trial. The manner of conducting an impeachment trial, in the Senate, resembles also a trial by jury.[1] That the "Chief Justice shall preside" during the trial of the President of the United States is a wise provision, because it is easy to presume that a Vice-President might be personally interested in the conviction of a President.

II. The Quorum, Journal, and Freedom of Speech.

Determination of Membership and Quorums. — Section 5, Clause 1. *Each house shall be the judge of the elections, returns, and qualifications of its own members, and a majority of each shall constitute a quorum to do business; but a smaller number may adjourn from day to day, and may be authorized to compel the attendance of absent members, in such manner and under such penalties as each house may provide.*

In the Senate the question raised in a contest usually applies to whether a senator has been duly elected. It has been held by the Senate that to deprive a member of

[1] See "Government in State and Nation," p. 159.

his seat for bribery or corruption in the course of his election, it must be shown that he was personally guilty of corrupt practices, that the corruption took place with his sanction, or that a number of votes sufficient to affect the result were corruptly changed. As an instance, Mr. Clark of Montana was refused a seat in the Senate during the first session of the 56th Congress, because it was proved that he had secured his election by bribing members of the State Legislature.

In the House the name of the person possessing the certificate of election signed by the governor of his State is entered on the roll of the House, but the seat may still be contested. Many cases of contested elections are considered by each new House. There were thirty-two seats contested in the 54th Congress. Such cases are referred to the Committee on Elections, which hears the testimony, and presents it to the House for final decision. Each of the cases when presented to the House consumes from two to five days which might otherwise be used for the purposes of legislation. The law provides that no more than $2,000 shall be paid either of the contestants for expenses, but even then, it is estimated, these contests cost the government, all told, $40,000 annually. When the decision is rendered by the House, the vote is, in most cases, strictly on party lines, regardless of the testimony. In view of these facts, it has been suggested that the Supreme Court decide all contested elections.

How a Quorum is Secured.— If it appears, upon the count of the Speaker, or upon the roll-call of the House, that a majority is not present, business must be suspended

until a quorum is secured. Fifteen members, including the Speaker, may be authorized to compel the attendance of absent members. This is accomplished as follows: The doors of the House are closed, the roll is called, and absentees noted. The Sergeant-at-arms, when directed by the majority of those present, sends for, arrests, and brings into the House those members who have not sufficient excuse for absence. When a quorum is secured, business is resumed.

Rules and Discipline. — Section 5, Clause 2. *Each house may determine the rules of its proceedings, punish its members for disorderly behavior, and, with the concurrence of two-thirds, expel a member.*

The Journal. Section 5, Clause 3. *Each house shall keep a journal of its proceedings and from time to time publish the same, excepting such parts as may in their judgment require secrecy; and the yeas and nays of the members of either house on any question shall, at the desire of one-fifth of those present, be entered on the journal.*

Our Knowledge of Congressional Proceedings. — As citizens in a republican government, it is our duty to keep informed on the problems which our representatives are called upon to solve. Means of gaining information are not wanting. The public galleries of both Houses are usually open to visitors. The official record of the proceedings of Congress is made known to the public through the Journal, which is read at the opening of each day's session. Reports of the debates do not appear in the Journal, but are published each day in the *Congressional Record.*

Another means of keeping constituents informed on the

position of their representatives is through the recording in the Journal of the vote of each member when demanded by one-fifth of those present. In voting by the "yeas and nays," the clerk calls the roll of members and places after each name, "yea," "nay," "not voting," or "absent." The Senate rules specify this as the only method of voting. (Other methods of voting in the House are indicated on page 80.)

Power to Adjourn. — Section 5, Clause 4. *Neither house, during the session of Congress, shall, without the consent of the other, adjourn for more than three days, nor to any other place than that in which the two houses shall be sitting.*

If there is a disagreement between the two houses with respect to the time of adjournment, the President may adjourn them to such a time as he thinks proper. This right has never yet been exercised.

Compensation and Freedom from Arrest. — Section 6, Clause 1. *The senators and representatives shall receive a compensation for their services, to be ascertained by law, and paid out of the treasury of the United States. They shall in all cases, except treason, felony, and breach of the peace, be privileged from arrest during their attendance at the sessions of their respective houses, and going to and returning from the same; and for any speech or debate in either house, they shall not be questioned in any other place.*

Should the members of Congress be paid a salary, or should the office be regarded as exclusively one of honor? These questions were discussed at length in the Constitutional Convention. Some of the delegates favored the

English custom, by which members of Parliament receive no salary. It was finally concluded to adopt the provisions as given, in order that men of ability, though poor, might become members of the National Legislature.

By a law of 1789 the compensation of senators and representatives was fixed at six dollars per day and thirty cents for every mile traveled, by the most direct route, in going to and returning from the seat of government. Prior to 1873, this amount was changed several times by act of Congress. The compensation then agreed upon and still paid is $5000 per year, with mileage of twenty cents, and $125 per annum for stationery. The Speaker receives $8000 a year and mileage. The President *pro tempore* receives the same amount while acting as President of the Senate.

To many people $5000 seems a large salary, but the great expense of living in Washington, especially if a Congressman and his family take part in the social life of the capital, renders the salary quite inadequate. Members have been known to pay more than their salaries for house-rent alone. Many members make a financial sacrifice in accepting a seat in Congress.

To hold Other Offices. Disqualification. — Section 6, Clause 2. *No senator or representative shall, during the time for which he is elected, be appointed to any civil office under the authority of the United States which shall have been created, or the emoluments whereof shall have been increased, during such time; and no person holding any office under the United States shall be a member of either house during his continuance in office.*

The purpose of this provision seems to have been to remove the temptation on the part of Congressmen to create offices, or to increase the emoluments of those already existing, in order to profit by such legislation. The exclusion of United States officials from seats in Congress was due to the desire of appeasing State jealousy, which

asserted that the National government would in this way secure an undue influence over the State governments. It is advocated, with good reason, that members of the Cabinet should be privileged to take part in the discussion of measures in Congress which pertain to their own departments. Alexander Hamilton asked for this privilege. It was refused because of the belief that he would exert too great influence over the members. The precedent thus established has always been retained.

But since executive officers are often invited to present their views before committees of Congress, they may, in this way, exert great influence upon legislation.

CHAPTER IX.

HOW LAWS ARE MADE BY CONGRESS.

Methods of Procedure developed by Custom. — Very little can be learned directly from the Constitution concerning the actual methods employed in the enactment of laws by Congress. In both houses, procedure in the conduct of their business has been developed by custom; it has changed from time to time as determined by circumstances, and it has taken on forms that were entirely unanticipated by the founders of our government. The principal reason why new methods of Congressional procedure have become necessary may be found in the growth of the amount of business presented to Congress for consideration; this, in turn, has been caused by the growth of population and wealth, and by the expansion of business relations throughout this country and with other nations.

Several features of Congressional organization may be mentioned as very important in determining the course of legislation. These are: —

I. The Committee System.
II. The House Committee on Rules.
III. The Speaker of the House.
IV. The Influence of Party Caucuses.

I. *The Committee System.* — Two facts made this system necessary in the houses of Congress. (1) The number of

members, especially in the House of Representatives, is so large that business cannot be transacted with dispatch by the entire body. (2) The number of bills introduced is so very great that it is impossible for either house to consider all of them; hence it is necessary that committees shall examine the bills and decide which are worthy of consideration.

In the long session of the 57th Congress, more than 15,000 bills were introduced into the House. The number of committees in the House was 58, the membership varying from 5 to 18. The most important House committees are those on Ways and Means (which has charge of all bills for raising revenue), Appropriations, Banking and Currency, Foreign Affairs, and Military Affairs. In the Senate of the 57th Congress there were 55 standing committees. The number of members on a committee was in most cases 9 or 11. A few of the Senate committees are those on Finance (corresponding to the committee on Ways and Means in the House), Agriculture, Commerce, and Foreign Relations.

Both in the House and in the Senate, every member is on some committee, and some members have places on several committees. In the House of Representatives the Speaker appoints the committees, and he selects the chairman and a majority of the members of each committee from the members of his own party; that is, from the party that has a majority in the House. The Senate committees are constituted in accordance with the same rule; but in the Senate the committees are elected, rather than appointed.

Steps in the Progress of a Bill. — The importance of the committee system in Congress is found in the power of committees to determine the destiny of bills that are committed to their charge. The *introduction* of a bill by a member of either house is merely a formal step; the bill is immediately *referred* to a committee. When the committee *reports* the bill back, the house will in a great majority of cases pass or reject it according to the committee's recom-

mendation. Few bills are debated in either house, and in the most of these cases the discussion has no influence upon the fate of the bill — it is meant merely to be heard or to be printed. Hence, it is in that intermediate stage between the reference of the bill to a committee and the report on it that the real work of legislation is accomplished.

The Power of Committees over Bills. — In the course of its deliberations a committee may exercise the utmost freedom with respect to the bills referred to it. The greater number of bills receive no consideration whatever from the committees; these may never be reported if the committees see fit to ignore them. Other bills are amended by the committees, or new bills are substituted for them. Such is the power intrusted to Congressional committees. However undesirable in some respects this method of legislation may seem, its necessity has fixed it as a permanent feature of Congressional procedure.

Many of the important committees have separate rooms where their meetings are held. Here the members may confer in secret, or they may allow or invite the hearing of testimony and arguments upon the subjects of bills. Frequently the majority members of a committee hold separate meetings, determine their policy, and then adhere to it regardless of the wishes of the minority members. The latter may present a separate report called the *minority report* of the committee.

II. *The Committee on Rules.* — Since only a small proportion of the bills that are reported favorably can receive consideration and come to a vote, the question now arises, How is it determined which bills shall be thus favored? In some measure this depends upon the importance and the merits of the bill; but it depends more upon the skill and influence of the member (generally the chairman of

the committee reporting the bill) who is particularly interested in seeing it enacted into law. In the House of Representatives this important matter is decided by the Committee on Rules, which is composed of five members, three being of the party that has a majority in the House. This committee decides which bills shall be considered, and how much time shall be given to the discussion of each one. Thus it practically dictates the course of legislation in the House. Sometimes the committee is overruled by an opposition composed of the minority members of the House together with a few rebellious members of the majority party; but such a revolt is exceptional, and usually the Committee on Rules has its way. Some central authority like this, with dictatorial power, seems necessary in order to settle the disputes and rivalries arising among influential members and important committees; these would block each other's progress, and no legislation whatever would be accomplished, were there not some power to decide which, in each case, shall have the right of way.

III. *The Power of the Speaker.* — As the Committee on Rules decides the programme to be followed in each day's proceedings in the House, the Speaker is the executive officer who sees that the programme is adhered to. Indeed, the Speaker is chairman of the Committee on Rules and is its most influential member. No bill can come before the House, and no member can address the House, without the Speaker's consent. In all important matters, it is necessary for a member to make an arrangement with the Speaker in order to secure recognition when he wishes to address the House.

In exercising the power of *recognition*, the Speaker will, of course, give both the sides a fair opportunity to debate upon important measures. He will not permit members to make motions, or to protract debate, merely for the sake of delaying some action to which they are opposed. Within recent years, *obstructive tactics*, popularly known as *filibustering*, are of rare occurrence in the House. Before these extensive and arbitrary powers were intrusted to the Speaker, the minority members more frequently obstructed the work of the House and prevented all legislation because of their opposition to a particular bill.

Two powers of the Speaker remain to be mentioned which are no less important in their influence on legislation than those already considered. He appoints all committees of the House, and in this way marks out in some important matters the policy that will be pursued in legislation. Again, the Speaker refers all bills introduced into the House to their appropriate committees. Sometimes the Speaker may exercise his discretion with regard to the committee to which he refers a certain bill, and in such cases his influence upon the fate of the bill is important.

We are endeavoring to analyze the complicated action of the forces that determine which bills shall, and which shall not, be enacted by Congress. So far, we discover that great authority is intrusted to small groups of members — the committees. These practically determine the contents of all bills. We find in the House a central directive committee (that on Rules) deciding which bills shall be dropped and which may be considered. Finally, we find that the Speaker is the most influential member of Congress, executing the decisions of the Committee on

Rules (that is, chiefly his own will) and deciding important questions at critical moments in the course of the daily business of the House.

The Lobby, Log-rolling, and Patronage. — Not all the bills that come before Congress are passed or rejected on their merits. The influences that determine the course of legislation at Washington are very numerous and complicated. Some of these influences are to a greater or less extent legitimate, and others are totally bad. The *lobby*, in its broadest sense, is composed of all those persons who go to Washington in order to exert pressure upon Congressmen in favor of or against certain measures. Some of the best laws and some of the worst are enacted through the influence of the lobbyist. *Log-rolling* is an important influence in determining legislation; a member votes for the pet measure of his fellow-congressman on condition that the latter will vote for the bill in which he is particularly interested. Political *patronage* is a great factor in determining votes in Congress; the power of members to recommend appointments,[1] and the influences exerted in their favor by the appointees, often determine the question of their continuance in office. Consequently, there is a great temptation to use patronage in exchange for votes. The use of money directly in *bribery* is difficult of detection, but other favors and privileges of pecuniary value are no less effective in the purchase of the votes of those members who are so unscrupulous as to be open to such influences.

Debate in the House. — The fate of nearly all bills that are introduced into Congress is determined by the interaction of the various influences that have received attention so far in this chapter. Argument in debate is a small factor in arousing favorable influence or in changing votes. In the House, the Committee on Rules limits strictly the time given to debate. The chairman of the committee reporting a bill generally has one hour in which to urge the passage of his measure; for a portion of the time he may *yield the floor* to other members, both friends and opponents of the bill. Of course, much more than one

[1] See p. 134.

hour is given to debate on important bills. Many of the speeches which are printed in the *Congressional Record* have not been delivered; but they are intended for circulation among the constituents of Representatives, and for use as campaign documents. Many of the speeches that are actually delivered receive scant attention; the lack of interest in them is made evident by the noise and confusion that very often prevail during sessions of the House.

Senate Procedure. — In the Senate, debate is not limited. Senators are expected to regard each other's rights with respect to the amount of time and attention they may demand; yet a bill may be "talked to death" in the Senate. As a result, the Senate is less businesslike in its procedure than the House, and some means of checking unlimited discussion[1] have often been proposed for it.

Conference Committees. — If one house amends a bill which has already passed the other, it must be returned for re-passage to the house where it originated. This is a frequent cause of conflict between the two houses, and each tries to insist on its rights.[2]

When such a dispute cannot be easily adjusted, a *conference committee* must be appointed. This is composed of members from each house, and they endeavor to arrange a compromise which will be acceptable to both houses. Generally their decision is ratified without question, but sometimes even this method of settlement fails.

[1] This is called, technically, a rule for "closure."

[2] Within very recent years the Senate has shown itself to be the stronger body. This is partly because its members have longer terms, and so become more skillful in exerting their influence and adhering to their demands.

Methods of Voting. — There are three methods of voting in Congress. (1) Members respond "aye" or "no" by acclamation. (2) If a *division* is called for, a rising vote is taken and the members are counted. In the House, the counting is done by two tellers, who stand near the Speaker's desk, while the members pass between them in single file, first those voting in the affirmative, and afterward those opposing the motion. When the "yeas and nays" are called for, or whenever the rules of either house require them, the roll is called and each member votes as he responds to his name. This vote is entered on the journal.[1]

After the roll-call is completed, the presiding officer announces the *pairs*. Members who belong to different political parties may agree that they shall be recorded on opposite sides of party questions, whether they are present or not. Or pairs may be arranged for particular votes only. This device enables a member to be absent from his seat without feeling that his vote is needed.

The President's Power in Lawmaking. — A bill which has received a majority vote in both houses is next sent to the President.

Article 1, Section 7, Clause 2. *Every bill which shall have passed the House of Representatives and the Senate shall, before it become a law, be presented to the President of the United States; if he approve he shall sign it, but if not he shall return it, with his objections, to that house in which it shall have originated, who shall enter the objections at large on their journal and proceed to reconsider it. If after such reconsideration two-thirds of that house shall agree to pass the bill, it shall be sent, together with the*

[1] See pp. 69–70.

objections, to the other house, by which it shall likewise be reconsidered, and if approved by two-thirds of that house it shall become a law. But in all such cases the votes of both houses shall be determined by yeas and nays, and the names of the persons voting for and against the bill shall be entered on the journal of each house respectively. If any bill shall not be returned by the President within ten days (Sundays excepted) after it shall have been presented to him, the same shall be a law, in like manner as if he had signed it, unless the Congress by their adjournment prevent its return, in which case it shall not be a law.

The framers of the Constitution intended that the veto power should be a check, though not an absolute one, upon hasty or unwise legislation. The President may cause a bill to fail by neither signing nor vetoing it during the last ten days of a session. The term *pocket veto* has been applied to this method of defeating bills.

SUPPLEMENTARY QUESTIONS AND REFERENCES.

1. Copies of the Congressional Record and the Congressional Directory furnish interesting illustrations of the topics treated in this chapter.
2. Procedure in the Senate, Ashley, The American Federal State, 228–231. In the House, ibid., 250–258, 263–264.
3. What difference is there in the granting of recognition in the Senate and House? Harrison, This Country of Ours, 45–48.
4. An interesting account of the appearance and character of the Senate, Bryce, I, 114–120 (117–123).
5. The character of Representatives — procedure in the House — the number of bills introduced, Bryce, I, 124–134 (128–138).
6. What appearance does the House make when at work? Bryce, I, 138–144 (142–148).
7. An Englishman's criticisms on our committee system, Bryce, I, 153–160 (157–164).

8. General observations on Congress, Bryce, I, Chapter 19.
9. How are obstructive tactics carried on? Alton, Among the Lawmakers, Chapter 20.
10. Why is there little debate in the House of Representatives? Wilson, Congressional Government, 72–73, 86–102.
11. The Senate, Forum, 31:423–431; N. Am. Rev., 174:230–244; Century Mag., 65:499–515.
12. Our Process of Lawmaking, Arena, 23:480–484; Century Mag., 64:170–187.
13. The Speaker's Influence, Rev. of R's, 21:85–86; Arena, 21: 653–666.
14. Comparisons of Congress with Parliament, N. Am. Rev., 170:78–86; Arena, 23:593–605.

CHAPTER X.

SOME IMPORTANT POWERS OF CONGRESS.

I. National Finances.

The Power of Taxation. — When we speak of the finances of a country, we mean its revenues and expenditures. Revenues have their origin chiefly[1] in taxation, and the power vested in Congress by virtue of which taxes are imposed and collected is found in the following clause:

Article I, Section 8, Clause 1. *The Congress shall have power to lay and collect taxes, duties, imposts and excises, to pay the debts and provide for the common defense and general welfare of the United States; but all duties, imposts and excises shall be uniform throughout the United States.*

Duties on Imports. — The two forms of taxes relied upon by the United States for its revenues are (1) duties and (2) excises.[2] A duty is a tax levied upon goods that are imported into the United States.[3] The merchant doing business in New York, for example, cannot obtain possession of the goods he has imported until the officers of the custom-house at that port have examined the *invoice*, or the list of articles in each package, with their prices; and

[1] Considerable sums are derived by our National government from the sale of public lands. See Chapter on Territories and Public Lands.

[2] The terms *duties* and *imposts* are nearly synonymous.

[3] Duties on exports are prohibited in Section 9, Clause 5, of Article I: *No tax or duty shall be laid on articles exported from any State.*

the officers may examine the goods, also, to see if they correspond in amount and quality to the statements of the invoice. The importer then pays to the collector of the port of New York the amount of the duty levied on his importation.

Kinds of Duties. — These are of two kinds. (1) *Specific* duties are fixed amounts levied on certain units of measurement of commodities, as the pound, yard, or gallon. (2) *Ad valorem* duties are levied at a certain rate per cent on the value of the articles taxed. Below are given several examples of duties imposed by the tariff law of 1897 (the Dingley law).

Watches, 40 per cent *ad val.*
Umbrellas, 50 per cent *ad val.*
Leather manufactures, 35 per cent *ad val.*
Glassware, 60 per cent *ad val.*
Apples, 25¢ per bushel.
Honey, 20¢ per gallon.
Cheese, 6¢ per pound.
Table knives, 16¢ each and 15 per cent *ad val.*
Blankets, 22¢ per pound and 30 per cent *ad val.*

It is apparent that on some articles both kinds of duties are levied.

In the fiscal year ending June 30, 1902, the total amount of duties collected was $254,500,000. New York is by far the most important port of entry.

Passengers on steamships coming from foreign countries are required to declare what dutiable goods they have among their baggage, each person being allowed to enter $100 worth of goods free of duty. Upon landing, their baggage is examined; trunks and valises are opened, and in suspected cases the persons of travelers are searched for concealed dutiable goods. The temptation to undervaluation and to smuggling, in order to escape this form of taxation, is so great that constant vigilance is necessary at custom-houses and along the borders of the United States to prevent these frauds. Special agents and revenue cutters are employed to detect violations of the law.

Tariff Laws. — A *tariff* is the list of the rates of duties fixed by law. An importer of foreign goods must consider

the amount of the duties he has paid as part of the cost of the goods when he sells them. If a higher price is caused in this way, this may deter importation and encourage the production of such articles in this country. Consequently, high rates of duties may have a decided influence upon the industries of a country. When the rates of duties are so adjusted as to bring about this result, we have a *protective* tariff; *i.e.* one under which persons can produce in this country certain articles which otherwise they could not produce, because of their cheapness when imported from a foreign country. The duties are made so high that it is not profitable to import the articles. When rates of duties are fixed primarily with the object of raising revenue, and without regard to their effect upon the industries of the country, we have a *tariff for revenue.* This kind of tariff is generally meant when the term *free trade* is used. Articles on which no duties are imposed are said to be on the *free list.* There is no country which fails to collect duties on some of its importations.

Reciprocity Agreements. — The United States has entered into *reciprocity treaties* with various countries for securing the reduction of tariff rates. Each country agrees to admit certain products of the other country at reduced rates, or free of duty. These are generally commodities in the production of which there is little or no competition between the parties to the treaty.

Internal Revenue Taxes. — Excises are taxes laid upon the manufacture and sale of certain products within the country. At the present time these *internal revenue* taxes are levied by the National government upon liquors,[1] to-

[1] Taxes are levied, not only upon the liquors themselves, but upon the business of brewing and rectifying; of selling by wholesale and by retail; of

bacco, snuff, opium, oleomargarine, filled cheese, mixed flour, and playing cards. The greater number of these taxes are paid by the purchase of stamps, which must be affixed, in the proper denominations, to the articles taxed. When the packages are broken, the stamps must be destroyed so that they cannot be used again.

War Taxes. — Because taxes of this kind are so easily collected, the government has extended them to a great number of articles when it suddenly needed a large revenue, as in the War of 1812, the Civil War, and the Spanish War of 1898. The law of 1898 increased the taxes on liquors and tobacco, and imposed new taxes on (1) proprietary articles, and (2) documents. Under the first heading fall patent medicines and compounds of various kinds. Documentary taxes[1] were imposed upon legal papers, such as deeds, mortgages, etc., and also upon bank checks and drafts, telegraph and telephone messages, and express receipts. Under this law the internal revenue receipts rose from $170,000,000 in 1898, to $273,000,000 in 1899. Congress has repealed these special war taxes.

The law of 1898 also levied taxes on bankers and brokers; and it included a legacy tax, which is still in force. Inheritances above $10,000 are taxed at various rates, which differ with the degrees of relationship that may exist between the one who bequeaths the property and the persons inheriting it.

Rules for Levying Taxes. — The Constitution contains two rules by which Congress must be guided in the levying of taxes. We have seen, Article I, Section 8, Clause 1, that *duties, imposts, and excises, must be uniform throughout the United States;* that is, the same rates must prevail everywhere. Another provision, Article I, Section 2, Clause 3, is that *representatives and direct taxes shall be*

manufacturing stills; and upon the stills themselves. A list of these taxes may be obtained from the collector of any internal revenue district.

[1] These were exactly like those imposed by Parliament in the Stamp Act of 1765.

apportioned among the several States . . . according to their respective numbers.[1]

We have, therefore, the following classification: —

I. Direct taxes, levied on	persons,[2] lands, incomes.	Must be apportioned among the States according to population.
II. Indirect taxes	duties, imposts, excises.	Must be uniform throughout the United States.

So far, we have discussed the indirect taxes only, for at present the United States levies no direct taxes. In our previous history, however, the government has imposed all the kinds of taxes mentioned in the outline above. In levying a direct tax, Congress must determine the total amount to be raised (as $2,000,000 in 1798, and $20,000,000 in 1861), and then apportion this amount among the States, according to their population. It is evident that, if this kind of tax is imposed upon property or incomes, the rate will not be uniform throughout the United States.

The bills introduced into Congress which provide for taxation are called "bills for raising revenue." They must originate in the House of Representatives (Article I, Section 7, Clause 1). The Committee on Ways and Means frames these bills. In the Senate, such bills are referred to the Committee on Finance, and here the bills may be amended.

[1] See also Article I, Section 9, Clause 4: *No capitation, or other direct, tax shall be laid unless in proportion to the census or enumeration hereinbefore directed to be taken.*

[2] These are *poll taxes*. Such a tax was levied on slaves in 1798 and 1813.

The Appropriation of Money. — Appropriation bills are those which provide for the expenditure of the government's funds, and these bills are in charge of the committee on appropriations in each house.

Below is a list of the principal items in the revenues and appropriations for the year ending June 30, 1902.

REVENUES.	
Duties	$254,500,000
Internal revenue	272,500,000
Miscellaneous	36,000,000
Total	$563,000,000
EXPENDITURES.	
War Department	$111,500,000
Navy Department	68,500,000
Indian Bureau	10,000,000
Pensions	138,500,000
Interest on public debt	29,000,000
Civil list and miscellaneous	113,500,000
Total	$471,000,000

The Power to borrow Money. — We have now seen how money is provided for the government under ordinary circumstances. In extraordinary cases this revenue is not sufficient; accordingly, Congress has been given power by Article I, Section 8, Clause 2, *To borrow money on the credit of the United States.*

Money is borrowed in most cases by the sale of bonds. These are of the same nature as the promissory notes by which individuals obtain loans. National bonds state the promise of the United States to pay a certain amount, at a stated time, with interest. A "registered" bond contains the name of the owner, and this is a matter of record at the

treasury department. When this bond is transferred, the record must be changed. "Coupon" bonds are usually payable to bearer; they have attached to them a number of coupons equal to the number of interest payments due during the term of the bond.

Bonds are bought and sold on the market, and their prices are quoted in the daily papers. When the bonds fall due, they are *redeemed* by the government at their face value, or "at par." On the market all United States bonds are now selling "at a premium." Issues of bonds were made in 1898, the rate of interest being 3 per cent, and in 1900, the rate being 2 per cent. The Public Debt Statement issued monthly by the treasury department gives the divisions of the bonded debt and the amount outstanding. On February 1, 1903, this amount was $914,541,330.

II. The Power of Congress over Commerce.

The Control of Commerce. — The power over commerce, which we are next to discuss, was given to Congress because the history of the country under the Articles of Confederation demonstrated conclusively the fact that State control of commerce was entirely inadequate. Through Congressional control we secure that uniformity which is essential to security and prosperity in commercial matters. Not all commerce that is carried on by the citizens of this country is subject to control by Congress. The Constitution gives it the power, in Article I, Section 8, Clause 3, *To regulate commerce with foreign nations, and among the several States, and with the Indian tribes.*

There is a vast amount of commerce that is carried on entirely within the limits of the different States. Over this commerce Congress has no power; it is regulated by State laws relating to trade and transportation.

Interstate Commerce. — The distinction between State and interstate commerce is not readily seen in many cases; but in general it may be said that if a commodity starts in one State destined for another, its control throughout its course lies within the power of Congress. This principle applies to both land and water transportation. So the coast trade among the States lies within the jurisdiction of Congress; also, commerce upon those rivers that form highways between different States. The harbors and waterways of the United States have been improved by the expenditure of many millions of dollars. This money has been appropriated in the "River and Harbor Bills" that are passed by almost every Congress.

The Interstate Commerce Law. — The importance of railroad transportation led to the enactment, in 1887, of the "Interstate Commerce Law," controlling this form of commerce. The law became necessary because of certain abuses which had arisen. In many instances, the railroads gave lower freight rates to certain persons than to others doing the same kind of business; again, the merchants or manufacturers of certain cities were favored by more liberal rates than could be obtained by those who were engaged in the same industries in other cities. As a result, the business of many persons and places suffered injury, while the business of their rivals prospered through the advantages given to them by the railroads. In consequence, the Interstate Commerce Law provided that all rates should be "just and reasonable." It was made unlawful to discriminate by giving to any particular person, corporation, or locality an unreasonable advantage over

others.[1] All rates for interstate commerce must be made public under this law. Finally, the Interstate Commerce Commission was created to supervise the administration of the law.

The Interstate Commerce Commission. — Complaints concerning the violation of the Interstate Commerce Law are made to this Commission, which consists of five members appointed by the President and confirmed by the Senate. The Commission cannot inflict penalties upon persons who are found by their investigations to have violated the law; this can be done only after the offender has been tried and found guilty in a court. Consequently, although some abuses have been corrected, the railroads still engage in other practices that are prohibited, and additional power must be given to the Interstate Commerce Commission before it can prevent the violation of the law.

The Control of Trusts. — Among the abuses arising in connection with interstate commerce are those which result when persons enter into agreements or combinations to prevent free competition; for under these circumstances prices are raised, or certain persons are favored in trade. In 1890, Congress passed a law prohibiting such combinations "in restraint of trade or commerce among the several States or with foreign nations." This is known as the Sherman Anti-trust Law. Now, a trust is simply a large corporation which has absorbed or killed off, more or less completely, other establishments engaged in the same industry. The trust may or may not have a monopoly, that

[1] The 57th Congress passed in 1903 a law providing penalties for the granting and the acceptance of "rebates."

is, complete control in that line of business; and it may or may not be engaged in interstate commerce. An agreement among certain railroad companies to establish and maintain freight rates was declared to be in violation of the law of 1890. Also, a combination, or "conspiracy," among railroad employees to stop the running of trains was declared illegal.[1]

The "trust problem," which is so prominent in current political discussion, is the question of preventing the evils of combination in industry. These evils become evident when excessive prices are charged by persons who control certain lines of business; that is, when free competition is prevented in the production, transportation, or sale of commodities. If the business conducted by a trust lies entirely within the limits of a single State's boundaries, then it must be regulated by State law. How far Congress may go in its regulation of trusts under the interstate commerce clause of the Constitution, quoted above, is an unsettled problem. Some authorities hold that the power of Congress is sufficient to meet all cases; while others believe that the Constitution must be amended before Congress can pass laws which will prevent the evils of combination in industry.[2]

III. The Money of the United States.

Our National Currency. — Another of the most important powers of Congress is that granted in the following clause: —

Article I, Section 8, Clause 5. *To coin money, regulate the value thereof, and of foreign coin, and fix the standard of weights and measures.*

In civilized countries it is the practice of the government to furnish to the people a "circulating medium" for

[1] Other cases are cited in "Government in State and Nation," p. 203.

[2] The Commissioner of Corporations in the Department of Commerce and Labor, which was created in 1903, has authority to investigate the manner in which corporations conduct their interstate business.

use in trade and commerce. Two kinds of money are in use in the United States: (1) coin, or specie; and (2) paper money. The total amount of money in circulation in the United States on June 30, 1901, was $2,249,000,000, or about $28.43 *per capita* for the whole population. Of this amount, two-thirds, roughly speaking, was paper money of the various kinds, and one-third was metal money.[1] We shall first consider the coins of the nation.

How Coins are Made. — The coinage of money takes place at the mints, which are located at Philadelphia, Denver, New Orleans, and San Francisco. Gold and silver come to the mints in the form of bricks, or rough bars, to which the term *bullion* is applied. Alloy must be added to the pure metal for the purpose of rendering it of sufficient hardness to withstand wear. In our gold and silver coins one-tenth of the weight is an alloy composed of copper and nickel. A quantity of the bullion of the required purity is first melted and then cast into ingots, or long bars. Each bar is next run between heavy rollers until it takes the form of a thin strip. From the strip are punched round pieces, called "blanks," of the size and thickness of the coin that is being made. In the next process the blank is weighed on a delicate balance; when found to be of the correct weight, the coin is placed in a powerful press, and from this it comes with its edge raised above the face and its edge milled. In a similar press the designs are stamped upon the faces of the coin.

[1] "Statistical Abstract," 1902, pp. 57–59. In addition to this amount in circulation the United States Treasury contained $313,000,000, of which $253,000,000 was gold.

Below is a list of the coins now being minted.

Gold Coins.[1]	
Double eagle	Half-eagle
Eagle	Quarter-eagle
Silver Coins.	
Standard dollar	Quarter dollar
Half dollar	Dime
Minor Coins.	
Five-cent (nickel)	One cent (bronze)

The silver coins less in value than one dollar are called *subsidiary* coins.

The Ratio of Gold and Silver Coins.— The law fixes the weight of pure metal in a silver dollar at 371.25 grains, troy weight, and that of the pure metal in a gold dollar at 23.22 grains. The *ratio* of these weights is 15.988 + : 1, or nearly 16 : 1. This indicates the origin of the famous expression, "sixteen to one."

Free Coinage. — By *free coinage* is meant a policy established by law, under which any person may bring bullion to the mint in any amount and have it coined; that is, the amount which the government will coin is *unlimited* by law. Our country has always had the policy of free coinage with respect to gold. This was also the policy in the coinage of our silver dollars until 1873. At that time the coinage of the silver dollar was discontinued until a law was passed in 1878 (the Bland Act) renewing its coinage, but in *limited* quantities. The government purchased silver bullion under this law, and under the Sherman Act (1890), but since 1893 no silver bullion has been purchased for the coinage of silver dollars, but the bullion already on hand has been used for this purpose.

Paper Money. — We have in the United States five kinds of paper money in general circulation: —

Kinds.	Amounts outstanding Dec. 31, 1902.
1. United States notes	$346,000,000
2. Gold certificates	383,000,000
3. Silver certificates	469,000,000
4. National bank notes	384,000,000
5. Treasury notes of 1890	24,000,000

[1] No gold one-dollar pieces have been coined since 1890.

The History of United States Notes. — United States notes, or "greenbacks," as they are commonly called, originated during the Civil War. When the government was without specie with which to purchase supplies for the army and pay other expenses, it issued these notes. Each note says on its face, "The United States will pay to bearer $____." Since no time was set for the fulfillment of this promise, and since there was neither gold nor silver in the treasury with which to redeem the notes, people would naturally hesitate to accept them in payment for goods or salaries. Consequently, Congress made the notes "legal tender";[1] that is, the law compelled creditors to receive this kind of money in payment for debts. The notes passed into circulation, therefore, because people were forced to take them; but their value depreciated greatly during the war. In 1879 the government began the redemption of the notes in specie, and since that time they have been worth their face value.

Gold and Silver Certificates. — It is much more convenient to handle paper money than coins. Consequently, provision is made for the gold certificates and silver certificates which represent, respectively, gold coins and silver dollars stored in the United States treasury and ready for exchange for the certificates at any time.

National Bank Notes. — The fourth kind of paper money is issued by national banks. These are organized under United States law and subject to control by an officer of

[1] Our full legal tender coins at present are the gold coins, silver dollars, United States notes and treasury notes of 1890. Subsidiary silver coins are legal tender in amounts not greater than $10.00, and the minor coins are legal tender to the amount of twenty-five cents.

the Treasury Department. Like banks that are organized under State law, national banks conduct the ordinary banking operations. This part of their business is subject to failure, and the depositors are liable to loss, as in the case of other banks. But the holder of a National bank note may always be sure of the fulfillment of the promise printed on its face, that "The National Bank of _____ will pay the bearer $____, on demand." This is because the security for these notes consists of United States bonds. Every National bank owns an amount of these bonds equal to the amount of its notes in circulation; the bonds are deposited with the government at Washington, and if the bank should fail, the bonds may be sold by the government and thus specie will be secured with which to redeem the notes.

The amount of treasury notes of 1890 is comparatively small, and this kind of money is destined to disappear within a few years.

SUPPLEMENTARY QUESTIONS AND REFERENCES.

1. The tariff schedule in force at the present time may be found in newspaper almanacs. Is this tariff high, low, or moderate in its rates?
2. The Statistical Abstract, published by the Bureau of Statistics of the Treasury Department, gives the list of items upon which duties and internal revenue taxes are collected, and the amounts yielded by each for a series of years; the expenditures of the government, with the chief items; a statement of the National debt; and statistics concerning the money of the United States.
3. Why do liquors and tobaccos bear the heaviest excise taxes? What reasons can you give for taxing the other articles mentioned on p. 86?
4. For a statement of the principal items of the public debt in 1901, see James and Sanford, Government in State and Nation, p. 193.

5. The evils of trusts and the remedies proposed are discussed in the following articles: Arena, 23 : 40–58, 617–626 ; 24 : 569–572 ; 25 : 264–270. Atl. Mo., 87 : 736–745; 89 : 332–339. Cent. Mag., 60 : 143–149, 152–153. Forum, 28 : 412–426 ; 30 : 286–293. N. Am. Rev., 174 : 778–784. Nation, 71 : 4–5.
6. Because our coins contain one-tenth alloy, they are said to be nine-tenths fine. Calculate from the weights of pure metal, given on p. 94, the total weights of the gold and silver dollars.
7. For information concerning the Act of Congress fixing a "standard of weights and measures," see Government in State and Nation, 219.
8. The depreciation of the United States notes, referred to on p. 95, is shown graphically in Government in State and Nation, 210.

CHAPTER XI.

OTHER GENERAL POWERS OF CONGRESS.

I. Power of Naturalization.

Who are Citizens. — Who are citizens of the United States is always a question of interest. We find it clearly answered in the first clause of the fourteenth amendment as follows: *All persons born or naturalized in the United States and subject to the jurisdiction thereof are citizens of the United States and of the States wherein they reside.*

Thus there are two classes of citizens: (1) those who are citizens by birth; (2) those who have been naturalized. Children born in this country, though of foreign parentage, and residing here, may be considered American citizens if they choose. According to an Act of Congress, passed in 1882, Chinese aliens may not be naturalized; but our Supreme Court has decided that a child born in the United States, of Chinese parents, is a citizen, if he desires to be. Though born in a foreign country, a child whose father is an American citizen may claim the privilege of American citizenship. Indians who keep their tribal relations are not included under the provisions of this section.

Naturalized Citizens. — The second class of citizens are those who are naturalized. That the rules should be uni-

form by which aliens become citizens, is self-evident. After a brief discussion, the Constitutional Convention provided in Section 8, Clause 4, that *Congress shall have the power to establish a uniform rule of naturalization, and uniform laws on the subject of bankruptcies throughout the United States.*

Process of Naturalization. — (1) The foreigner desiring to become a citizen goes before the clerk of any court of record and declares, "upon oath," that it is his intention to become a citizen of the United States, and to renounce all allegiance to the government which has jurisdiction over him. He then receives his "first papers." (2) After he has resided in the United States for five years, providing two years have elapsed since his "declaration of intention," he may secure his certificate of naturalization. He must appear in open court and swear that he will support the Constitution of the United States, and renounce all allegiance to any foreign power. Two witnesses must testify to his term of residence, and declare that he is a man of good moral character. His wife, and those of his children who are under twenty-one years of age, become citizens at the same time. In certain cases, Congress has, by a single act, admitted large numbers of aliens to American citizenship, as it did at the time of the purchase of Louisiana, the annexation of Texas, and of Hawaii.

Bankrupt Laws. — It sometimes happens, because of general depression in trade throughout the country, on account of losses, or for other reasons, that business men become heavily involved in debt. They are said to be insolvent. Now it is but just that such property as they have should be divided in some equitable way among the creditors. A bankrupt law secures such a division, and the debtor is, at the same

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time, freed from all legal obligation to pay the debts which cannot be met in this way. The first law of Congress on this subject was passed in 1802, and repealed in 1803. Since that time there have been three other bankrupt laws, but the total time during which they have been in force amounts only to some twenty years. The last law, that of 1898, is still in operation.[1]

Some States have also passed insolvency laws. However, these must not in any way conflict with the provisions of the national bankrupt laws.

II. The Postal System.

Organization of the Post-office Department. — We can appreciate somewhat the advancement made in the postal service rendered by the government when we read that an Act of Congress in 1782 directed that mail should be carried "at least once in each week from one office to another." Our well-organized postal system, declared recently by the Postmaster-General to be the "greatest business concern" in the world,[2] has been evolved through laws made in carrying out the provision of the Constitution that *Congress shall have power to establish post-offices and post-roads.*

As is well known, the Postmaster-General, a member of the President's Cabinet, is at the head of this Department of government. Among his duties, that of overseeing the appointment of some 70,000 postmasters is by no means the least.[3] These are the so-called fourth-class post-

[1] See "Government in State and Nation," pp. 224, 225, for a further discussion of bankrupt laws — especially that of 1898.

[2] The total receipts of the Post-office Department for 1902 were $121,840,047.

[3] The appointments are actually made by the Fourth Assistant Postmaster-General.

masters. The other three classes, in which are included those postmasters whose salaries are not less than $1000, are appointed by the President, with the consent of the Senate.

Classes of Mail. — Mail matter belongs to one of four classes. In general, the classes and rates are as follows: First class — letters, two cents an ounce; second class — newspapers and periodicals, one cent a pound; third class — books, one cent for two ounces; and fourth class — merchandise, limited to four-pound packages, one cent an ounce.

Free Delivery. — Among the notable advances in the mail service was the provision for the free distribution of mail in the cities of 10,000 inhabitants, or where the annual postal receipts are $10,000 and above.

Rural Free Delivery. — No innovation in postal methods has been more successful than the free delivery of mails in the country districts. The development of the system, since its establishment in 1897, has been remarkable.[1]

Among the good effects resulting from its extensive introduction may be mentioned the following: (1) Correspondence in the communities affected has increased. (2) The circulation of the daily newspaper and of periodical literature has been greatly enlarged, and interest has grown in public affairs. (3) Good roads have been multiplied, for they are made one of the conditions for the introduction of the service. (4) Because the country districts are brought into daily communication with the centres of population, the tendency to quit the farm for the town

[1] According to the report of the superintendent for the year ending June 30, 1902, 8413 routes had been established. Congress granted an additional sum of nearly $5,000,000 to extend this service during the year 1903. President Roosevelt, in his annual message for 1902, pronounces the system an unqualified success, and urges its further extension.

has been lessened and thus rural free delivery is helping, in some degree, to solve one of the problems of our social and industrial life.

Money Orders. — Another great convenience in this department is the "money order" office, through which money may be transferred quickly and safely. The office is also made a bank of deposit by many persons, who secure money orders payable to themselves.

Postal Savings-banks. — At various times bills have been before Congress providing for the establishment of postal savings-banks in connection with post-offices. It is proposed that they shall receive small amounts on deposit, paying a low rate of interest, and that the funds secured be invested in government bonds. A strong argument in favor of their establishment is, that they have met with much favor in many of the European countries.

Some of the Defects in our Postal System. — (1) One of the great abuses in the postal system arises through the delivery of second-class matter. There can be little doubt but that private interests are often aided by a perversion of the law defining periodical publications. That this is an unjust drain upon the public funds is clear, when we consider that, in a recent year, the government expended $20,000,000 more than it received for carrying second-class mail. (2) Another serious defect has existed, in the payment of exorbitant rates to railroad companies for carrying the mails. (3) Some Congressmen abuse the privilege granted them of sending government publications free. (4) The postal system has offered one of the best fields for the manipulation of the spoilsman. Postmasters have been usually appointed on the recommendation of representatives, and, too frequently, the one essential to securing an office is that the successful applicant must be influential in politics.[1]

[1] "The policy now is to consider all fourth-class postmasters as appointed for an indefinite period, and subject to removal for cause only." — *Report of Civil Service Commission*, 1901–1902, p. 20.

III. Copyrights and Patents.

Copyrights and Patents. — Section 8, Clause 8. *To promote the progress of science and useful arts, by securing, for limited times, to authors and inventors, the exclusive right to their respective writings and discoveries.*

The development of American literature has been greatly aided through the operation of laws based on this clause. Copyrights are secured from the Librarian of Congress. Any person obtaining a copyright has the sole right to print, copy, or sell the book, chart, engraving, music, etc., for a period of twenty-eight years. A copyright may be renewed for fourteen years longer. It may be sold or transferred, providing a record of the transfer be made in the office of the Librarian of Congress, within sixty days.

Patents. — Americans have been rightly named the great inventors of the world. Not a little of our marvelous industrial progress has been due to this inventive ability. The government has contributed to the same end, through the enactment of laws protecting those inventors who secure patents. A person desiring a patent must declare upon oath, in his petition addressed to the Commissioner of Patents, that he believes himself to be the first inventor of the article for which he solicits a patent. The sum of fifteen dollars is charged for filing the application, and twenty dollars for issuing the patent. A patent is granted for seventeen years, but may be extended for seven years more. During this period, the

patentee has the exclusive right to manufacture, sell, or transfer his invention.[1]

IV. Military Powers of Congress.

Section 8, Clauses 11, 12, 13, 14. *To declare war, grant letters of marque and reprisal, and make rules concerning captures on land and water.*

To raise and support armies, but no appropriation of money to that use shall be for a longer term than two years.

To provide and maintain a navy.

To make rules for the government and regulation of the land and naval forces.

The Army. — Americans are always impressed by the military spirit so prevalent in European nations. Compared with the standing army of Germany, which has some 700,000 men, and with that of Russia, containing 1,000,000 men, or with that of most European nations, our army is insignificant in size. According to a law of 1901, the army of the United States cannot contain more than 100,000 men.[2]

Fortunately, there has always existed in the United States the desire to keep the standing army from becoming unduly large. The Constitution itself indicates that appropriations for the army shall not be for a longer time than two years. At the end of this period, the people may check the growth of the army through the election of representatives opposed thereto.

[1] The total number of applications filed for patents, in 1902, was 50,000. This was the largest number ever applied for in a single year.

[2] The annual report of the Secretary of War, for 1902, shows that the number of enlisted troops in our army numbered 59,806.

Officers and Classification of the Army. — The President is, *ex-officio*, commander-in-chief of the army and navy of the United States. The office of general was created, by Congress, March 3, 1799, but was not filled. It was revived in 1866 for General Grant, General Sherman succeeding to the title in 1869. The same rank was bestowed on General Sheridan in 1888. The lieutenant-general is next in rank to the general. The army is apportioned to three geographical divisions: that of the Atlantic, of the Missouri, and of the Pacific. Each division is commanded by a major-general. These divisions are sub-divided into six departments, each having one or more brigades of men in command of a brigadier-general. Each brigade is divided into regiments commanded by a colonel, who is aided by a lieutenant-colonel and a major. The adjutant, who acts as secretary for the colonel, and the quartermaster, who looks after the supplies, are both officers of the regiment, ranking as first lieutenants. Infantry regiments consist of ten companies. The cavalry regiments have twelve troops or companies; and the artillery, twelve companies or batteries. The maximum number of men in a company is 100. The commissioned officers of a company are, captain, first and second lieutenants, with an additional first lieutenant for the artillery. The non-commissioned officers are, first sergeant, sergeant, and corporal. Officers above the rank of captain are called "field officers," and all others, "officers of the line."

The Navy. — We are told by competent authorities that one of our best means of preserving peace with foreign powers is to maintain a strong navy. This has become much more necessary since the United States has begun to acquire insular possessions. Although the construction of the modern American navy was not begun until 1883, since that time progress has been so marked that it is now estimated our navy ranks fourth among the navies of the world. The order is Great Britain, France, Russia, the United States. In the year 1899 Congress appropriated $36,000,000 for the construction of twelve new ships of war.[1]

[1] According to the report of the Secretary of the Navy, for 1902, the fighting strength of the American navy, counting ships launched, under construction,

Names of Vessels. — A ship of the first class is given the name of a State; one of the second class that of a principal city or river, and the names for ships of the third class are selected by the President. The navy now contains 312 vessels.

Officers in the Navy. — The titles admiral and vice-admiral, corresponding to the grades of general and lieutenant-general in the army, were created by act of Congress to be bestowed on the following men as recognition for distinguished services during the Civil War: Admirals Farragut and Porter; and Vice-Admirals Farragut, Porter and Rowan. Admiral Dewey was granted his title by a special Act of Congress after the battle of Manila. The officers of the navy ranking with major-generals, brigadier-generals, colonels, and so on, in the army, are rear-admirals, commodores, captains, commanders, lieutenant-commanders, lieutenants, masters, ensigns.

The Militia. — With but little opposition in the Constitutional Convention, Congress was given the power to make provision for citizen-soldiers as follows: —

Section 8, Clause 15. *To provide for calling forth the militia to execute the laws of the Union, suppress insurrections and repel invasions.*

Clause 16. *To provide for organizing, arming and disciplining the militia, and for governing such part of them as may be employed in the service of the United States, reserving to the States respectively the appointment of the officers, and the authority of training the militia according to the discipline prescribed by Congress.*

Number of the Militia. — All able-bodied male citizens of the United States and males between eighteen and forty-five years of age who have declared their intention to become citizens are regarded as the militia force of the country. As a matter of fact, there are at present only

and authorized by acts of Congress, has increased to four times what it was at the beginning of the war with Spain.

about 100,000 men enrolled in this service. But in the case of an emergency the President may compel the governors of the various States to furnish the troops needed. The militia may thus be called into service, under their own State officers, for a period of nine months. The War of 1812 and the Civil War furnish the best illustrations of the enforcement of this provision.

Volunteers of 1898. — We should note here the manner in which men were secured for the war against Spain. We see, according to Clause 15, that the militia may be called out only for the purposes of executing the laws of the Union, suppressing insurrections, and repelling invasions. Now, in the case given, the war was to be conducted in foreign territory, and President McKinley called for 200,000 volunteers. It was understood, however, that preference would be given to those volunteers who were already members of the organized militia.

V. Location of the Capital.

Section 8, Clause 17. *Congress shall have the power to exercise exclusive legislation in all cases whatsoever over such district (not exceeding ten miles square) as may, by cession of particular States and the acceptance of Congress, become the seat of the government of the United States, and to exercise like authority over all places purchased by the consent of the legislature of the State in which the same shall be, for the erection of forts, magazines, arsenals, dockyards, and other needful buildings.*

One of the most interesting contests in American history arose in the selection of a site for the capital city. Congress finally accepted, for this purpose, one hundred square miles of land on the Potomac River, which was ceded by Maryland and Virginia. The thirty square miles given

by Virginia were afterward returned to that State. The capital was to be in New York until 1790, then in Philadelphia until 1800. In 1800 it was transferred to the new district, called the District of Columbia.[1]

VI. Implied Powers.

Strict and Loose Construction. — Our national development has been, in large measure, dependent on the interpretation of the next clause of the Constitution. It is often called the elastic clause.

Section 8, Clause 18. *To make all laws which shall be necessary and proper for carrying into execution the foregoing powers and all other powers vested by this Constitution in the government of the United States or in any department or officer thereof.*

Briefly stated, the problem has always been, Has Congress the right to exercise powers not definitely granted by the Constitution? Alexander Hamilton first set forth the doctrine of *implied* powers. He urged that Congress might, in carrying out specific powers, use methods not *expressly* provided for in the Constitution, as in the creation of a bank or a mint. Since the time of this interpretation, which, fortunately for American interests, was sanctioned by Washington and later by the Supreme Court through its great Chief Justice John Marshall, the advocates of the doctrines of strict and loose construction have contended for their principles. Does the Constitution permit the acquisition of territory? May Congress establish a protective tariff, or a system of internal improvements? We

[1] For the government of this district, see "Government in State and Nation," p. 239.

have here but three of the great questions which have led to a definition of these opposing views. Speaking in general terms, the party in power has favored loose construction, while the party out of power has advocated strict construction. Said Mr. Bryce, "The Americans have more than once bent their Constitution in order that they might not be forced to break it."[1]

SUPPLEMENTARY QUESTIONS AND REFERENCES.

1. What are star routes? James and Sanford, Government in State and Nation, 229.
2. Should postal savings-banks be established? N. Am. Rev., 172: 551–554.
3. Should there be a system of postal telegraphy? Cent. Mag., 59: 952–956; N. Am. Rev., 172: 554–556.
4. Extent and advantages of Rural Free Delivery, Rev. of R's, 27: 55–60.
5. Perils of the Postal Service, N. Am. Rev., 172: 420–430, 551–559.
6. Defects in the Postal System, N. Am. Rev., 174: 807–819; 175: 115–127.
7. Privateers and privateering, Government in State and Nation, 204; Walker, The Making of the Nation, 231, 232.
8. For the methods employed in the patent office and a comparison between our system and that of European nations, see Cent. Mag., 61: 346–356.
9. A good account of the reorganization of the army of the United States is given in the Atl. Mo., 89: 437–451.
10. The Development of the United States Army, Scribner's Mag., 30: 286–311, 446–462, 593–613.
11. West Point after a Century, World's Work, August, 1902, 2433–2451.
12. A Hundred Years of West Point, Outlook, 71: 591–601.
13. Life at West Point, Rev. of R's, 26: 45–53.
14. What was the character of our navy prior to 1883? Harrison, This Country of Ours, 251–255.

[1] Bryce, "American Commonwealth," I, 390.

15. The New American Navy, Outlook, 73 : 323–337.
16. Comparison of the strength of our navy with that of other nations, Rev. of R's, 25 : 561–570.
17. What special problem was connected with the location of the capital? How was it finally settled? Hart, Contemporaries, III, 269–272; Schouler, I, 152–156; McMaster, I, 555–562; World's Work, 1 : 191–195.
18. The development of Washington during the past one hundred years is discussed in Rev. of R's, 22 : 675–686; Forum, 30 : 545–554; Outlook, 70 : 310, 311, 817–829; Cent. Mag., 63 : 621–628, 724–756; Cosmop., 30 : 109–120.
19. Proposed Improvements in Washington, Cent. Mag., 63 : 621–628, 747–759.
20. For the influence of the doctrine of implied powers, see : —
    (*a*) Internal Improvements, Hart, Contemporaries, III, 436–440; Walker, The Making of the Nation, 204, 205, 262, 363; Hart, Formation of the Union, 227–229, 353–355.
    (*b*) The United States Bank, Hart, Contemporaries, III, 446–450; Hart, Formation of the Union, 150–151, 226–227; Walker, The Making of the Nation, 82–83.
    (*c*) The annexation of territory, Hart, Contemporaries, III, 373–376; Walker, The Making of the Nation, 177–184; Hart, The Formation of the Union, 188.
    (*d*) Legal tender cases, Wilson, Division and Reunion, 280–281.

CHAPTER XII.

POWERS DENIED THE UNITED STATES AND THE SEVERAL STATES.

While restrictions on Congressional powers are found elsewhere in the Constitution, Section 9 of Article I seems to have been framed especially for this purpose.[1]

Writ of Habeas Corpus. — Clause 2 provides: *The privilege of the writ of habeas corpus shall not be suspended, unless when in cases of rebellion or invasion, the public safety may require it.*

A writ of *habeas corpus* is a writ granted by a court, commanding an officer to produce before it a prisoner, in order that the court may inquire into the cause of his imprisonment or detention. If, after such inquiry, it is found that the person is detained for insufficient cause, he is granted his freedom.

President Lincoln and the Writ of Habeas Corpus. — President Lincoln, as a military necessity, in 1861, suspended the privilege of the writ over a limited area, constituting a large part of the State of Maryland. The Supreme Court, however, declared his order non-effective, maintaining that the right of suspending the writ of *habeas corpus* lay with Congress, though it might be granted to the President. This attempt on the part of the Supreme Court to restrain Mr. Lincoln was a failure, and shows that even the highest of our tribunals may not have

[1] Clause 1 of this Article formed an important part of the third great compromise which was discussed on p. 43.

its usual power in time of war. It was not until March 3, 1863, that Congress made the decree of President Lincoln legal by authorizing him to suspend the writ whenever he believed the public safety demanded it. In September of that year he declared the suspension general throughout the country.

Ex Post Facto Laws. — Clause 3. *No bill of attainder or ex post facto laws shall be passed.*

An ex post facto law, as defined by the Supreme Court, is a "law which renders an act punishable in a manner in which it was not punishable when it was committed." It applies to acts of a criminal nature only.[1]

Care of Public Money. — Clause 7. *No money shall be drawn from the treasury, but in consequence of appropriations made by law; and a regular statement and account of the receipts and expenditures of all public money shall be published from time to time.*

It is proper in a government such as ours that the control of the public money should be lodged with the representatives of the people. Through the annual report of the Secretary of the Treasury, the people may know from what sources our revenues are derived and for what purposes the money is expended.

Titles of Nobility and Gifts. — Clause 8. *No title of nobility shall be granted by the United States; and no person holding any office of profit or trust under them shall, without the consent of the Congress, accept of any present, emolument, office, or title of any kind whatever from any king, prince, or foreign state.*

According to the wording of the clause, Congress may

[1] Clause 4 is discussed under National Finances, p. 87.

allow gifts, of the kind mentioned, to be accepted by our National officials. Usually, however, such gifts pass into the keeping of government.

Powers denied the States. — We recall the power of the States and weakness of the general government under the Articles of Confederation. It was plain to the members of the Constitutional Convention that hopeless confusion would arise if the States should also be given the right to coin money, pass ex post facto laws, etc. Therefore, certain prohibitions were made on the powers of the States. In Section 10, Clause 1, we note that these prohibitions are absolute, as: —

No State shall enter into any treaty, alliance or confederation; grant letters of marque and reprisal, coin money, emit bills of credit; make anything but gold and silver coin a tender in payment of debts; pass any bill of attainder, ex post facto law, or law impairing the obligation of contracts, or grant any title of nobility.[1]

In Section 10, Clauses 2 and 3, the prohibitions are only conditional; thus: —

No State shall, without the consent of the Congress, lay any impost or duties on imports or exports except what may be absolutely necessary for executing its inspection laws; and the net produce of all duties and imposts laid by any State on imports or exports, shall be for the use of the treasury of the United States; and all such laws shall be subject to the revision and control of the Congress.

[1] In the celebrated Dartmouth College case, it was finally determined that a State legislature may not modify the terms of a contract. See Life of John Marshall, by Magruder, "American Statesmen," new ed., 188–190.

No State shall, without the consent of Congress, lay any duty of tonnage, keep troops or ships of war in time of peace, enter into any agreement or compact with another State or with a foreign power, or engage in war, unless actually invaded or in such imminent danger as will not admit of delay.

More Complete Protection of Personal Rights. — By a careful reading of Sections 9 and 10, it is seen that some of the rights of the individual are guarded against encroachment on the part of government, either National or State. But the people felt that there were other personal rights which needed protection. They were familiar with the Bills of Rights in their own State constitutions. That the National Constitution did not also contain a Bill of Rights was, as we have seen, one of the chief arguments made against its adoption in the State conventions.[1]

The First Ten Amendments. — A large number of propositions, therefore, were submitted to the first Congress by the States. Seventeen of these were selected by the House of Representatives, and proposed as amendments to the Constitution. Twelve of these were acceptable to the Senate also, and ten were ratified by the required three-fourths of the State Legislatures. We call them the first ten amendments to the Constitution. If we read these amendments, we shall find that really they are a Bill of Rights, for the preservation or protection of rights of the people is expressed in all.[2]

[1] See p. 45. [2] See Appendix A.

CHAPTER XIII.

THE EXECUTIVE DEPARTMENT.

The President and his Election. — We have seen that the one great weakness of the government under the Confederation was that there existed no adequate executive. After much discussion in the Convention, the fear of a despot at the head of affairs gave place to the desire to secure executive energy and responsibility. To-day, the President is the most notable personage among all our officials. Mr. Bryce calls the Presidential office the greatest office in the world unless we except the papacy. In the Executive Department, the President's power is practically absolute. He may appoint and remove, either directly or indirectly, all officials of the department, and they are finally responsible to him in the performance of their duties. His control of international relations and his influence on legislation are, as we shall see, extensive.

Length of Term. — Article II, Section 1, Clause 1. *The executive power shall be vested in a President of the United States of America. He shall hold his office during the term of four years, and, together with the Vice-President, chosen for the same term, be elected as follows : —*

Method of Election. — How shall the President be chosen? This problem is said to have taken one-seventh

of the entire time of the Convention. While there were those who believed that election by the people would be wise, still this sentiment was not general. It was thought that a choice in this way would cause great "tumult and disorder." Besides, it was urged that the people would not be sufficiently acquainted with the men who have the necessary qualifications for such high office. For a special investigation of this sort, they agreed that it would be best to select a small number of persons who would be most likely to possess the required information and discernment. The appointment of these independent electors was provided for as follows: —

Appointment of Electors. — Section 1, Clause 2. *Each State shall appoint, in such manner as the legislature thereof may direct, a number of electors equal to the whole number of senators and representatives to which the State may be entitled in the Congress; but no senator or representative or person holding an office of trust or profit under the United States, shall be appointed an elector.*

Article II, Section 1, Clause 3. *The Congress may determine the time of choosing the electors, and the day on which they shall give their votes, which day shall be the same throughout the United States.*

At present, the appointment of electors is a necessary but a comparatively unimportant step in the election of a President.

The real power exists in the National conventions of the great political parties. Instead of exercising the right of free choice, as they were originally expected to do, the electors are really bound to vote for candidates nominated

in these conventions. Let us consider, then, some of the chief points in the history and practical working of National conventions.

Early Methods of Nominating. — Like the development of other political usages, the method of nominating a President passed through several stages before the present plan of nominating conventions was reached. No nominations were made in the first two Presidential elections. In 1796, Washington having refused to be a candidate for a third term, party managers in Congress agreed informally on Adams and Jefferson as the candidates of the Federalist and the Republican parties respectively. A caucus of Federalist Congressmen, in 1800, nominated Adams and Pinckney, and a caucus of Republican Congressmen nominated Jefferson and Burr, for the offices of President and Vice-President. The Republican members of Congress continued to hold a regular caucus and thus to direct the votes of the party electors until 1824. In that year William H. Crawford, the last Congressional nominee, was defeated. There was opposition to the Congressional caucus from the beginning, for such a method was regarded as undemocratic. In 1824 and 1828 the several State Legislatures put forward their favorites for the office of President.

Development of National Conventions. — As early as 1812, De Witt Clinton was nominated as the candidate of the Federalists in a convention held in New York City, made up of seventy delegates, who represented eleven States. But the National nominating convention, as we know it, was used for the first time by the Anti-Masonic party, which selected William Wirt for its candidate in 1831. This method was followed in the same year by the National Republican party, which nominated Henry Clay. The National convention of the Democratic party in 1832 nominated Andrew Jackson, who had already been nominated by many local conventions and State Legislatures. Many years elapsed before the present complex organization was reached, but since 1836, with the single exception of the Whig party in that year, parties have regarded the National convention as an essential factor in electing President and Vice-President.

Election of Delegates to the National Conventions. — The National conventions of the Republican and the Demo-

cratic parties are made up of twice as many delegates from the different States as these States have representatives and senators in Congress. Delegates are chosen by conventions in the various States in April or May of the Presidential election year. According to the usual method, two delegates are selected for each of the Congressional districts by the district conventions of each party, and four delegates at large are chosen by the State conventions. In some States, all the delegates of a party are selected in the State convention. The Republican National convention also admits to full membership two delegates from each Territory and one from the District of Columbia.

The National convention is held in some leading city during the month of June or July of the year in which a President is to be elected. A few days before the time set for the convention, the delegates, together with many thousands of politicians and sight-seers, flock to that city. Headquarters are established and delegates are interviewed on behalf of the different candidates. On the day appointed, the convention is called to order by the chairman of the National committee, under whose auspices the convention is to be held. A temporary chairman is elected, and clerks and secretaries are appointed. Committees are also appointed, the most important being those on credentials and on resolutions. Each State delegation selects one of its members for each of the committees. In the next session, a permanent chairman is usually selected, and the committee on resolutions presents its report, which sets forth the platform embodying party doctrines and principles. Nominations are then in order. The roll of States is called, and the various delegations place before

the convention the favorite of their State. A State often waives its privilege in behalf of some other State which has a candidate to present. Again the clerk calls the roll of the States, and each chairman of a delegation announces the votes from his State. In the Republican convention, a majority of the number of delegates voting is sufficient to nominate; but no nomination is possible in the Democratic convention except by a vote of two-thirds of the delegates. Then follows the selection of a candidate for Vice-President. In this choice, the attempt is made to secure some man who will add strength to the party, and who comes from a different section of the country from that represented by the candidate for the Presidency. He may, as in the cases of Tyler and Johnson, represent a faction of the party that is not in entire agreement with the majority.

The National Committee. — A National committee is also appointed, made up of one member from each State, who is nominated by the State delegation. The wishes of the Presidential candidate are of influence in the choice of the chairman, who need not be a member of the convention. The committee occupies a position of great importance, for by it the platform of the party is largely determined. We have here a body of men not mentioned by the Constitution, but exerting vastly greater influence upon the election of President than does the electoral college itself. It organizes the campaign, secures money, selects speakers, and sends out party literature. The committee looks after the interests of the party during the ensuing four years and issues the call for the next National convention.

Election of Electors. — We are now ready to consider the place of the electors in the choice of a President. The nominations of candidates for the office of elector are usually made at the State conventions of the different par-

ties when State tickets are nominated. These occur, ordinarily, in August or September preceding the November election. Each political party nominates as many electors as the State has senators and representatives in Congress. The names of the electors are then placed on the general party ticket, on which appear also the names of the candidates for President and Vice-President; each person then votes for the entire number of electors to which his State is entitled, and will naturally vote for all the electors on his party ticket. The political party, therefore, which receives the majority of votes in a State secures all the electoral votes of that State.[1]

Vacancies in the Offices of Electors. — Congress enacted in 1845 that each State might provide, by law, for the filling of vacancies in the electoral college, and that if any State failed to choose electors on the regular day, that they might be appointed on a later day in such manner as the State might, by law, direct. Nearly all of the State legislatures have conferred on the college itself the power of filling vacancies.

Function of Electors. — The steps prescribed by the Constitution must still be followed, although we know, long before the electors cast their votes, who the next President will be. The actual function of the electors is given in Amendment XII, as follows: —

The electors shall meet in their respective States and vote by ballot for President and Vice-President, one of whom, at

[1] It has sometimes happened, however, when the election in a State has been close, that one or more of the electors on a minority ticket have run ahead of the other candidates on that ticket, and have secured a larger number of votes than candidates on the majority ticket, thus obtaining an election. California, in 1892, gave one electoral vote to Mr. Harrison and eight to Mr. Cleveland, and again, in 1896, gave eight votes to Mr. McKinley and one to Mr. Bryan. Kentucky, in 1896, cast twelve votes for Mr. McKinley and one for Mr. Bryan.

least, shall not be an inhabitant of the same State with themselves; they shall name in their ballots the person voted for as President, and in distinct ballots the person voted for as Vice-President; and they shall make distinct lists of all persons voted for as President, and of all persons voted for as Vice-President, and of the number of votes for each, which lists they shall sign, and certify, and transmit, sealed, to the seat of government of the United States, directed to the President of the Senate; — the President of the Senate shall, in the presence of the Senate and House of Representatives, open all the certificates, and the votes shall then be counted; — the person having the greatest number of votes for President shall be the President, if such number be a majority of the whole number of electors appointed; and if no person have such majority, then, from the persons having the highest numbers, not exceeding three, on the list of those voted for as President, the House of Representatives shall choose immediately, by ballot, the President. But in choosing the President, the votes shall be taken by States, the representation from each State having one vote; a quorum for this purpose shall consist of a member or members from two thirds of the States, and a majority of the States shall be necessary to a choice. And if the House of Representatives shall not choose a President, whenever the right to choose shall devolve upon them, before the fourth day of March next following, then the Vice-President shall act as President, as in the case of the death or other constitutional disability of the President. — The person having the greatest number of votes as Vice-President shall be the Vice-President, if such number be a majority of the whole number of Electors appointed; and if no person have a majority, then, from the

two highest numbers on the list, the Senate shall choose the Vice-President; a quorum for the purpose shall consist of two-thirds of the whole number of senators, and a majority of the whole number shall be necessary to a choice. But no person constitutionally ineligible to the office of President shall be eligible to that of Vice-President of the United States.

Voting of the Electors. — The formal election of President takes place on the second Monday in January, when the electors meet at their various State capitals and cast their votes. Separate ballots are given for Vice-President. Three separate sealed lists of the results are then prepared. Two of these are sent to the President of the Senate, one by mail and the other by special messenger. The third is deposited with the United States District Judge of the district in which the electors meet. On the second Wednesday in February the votes are opened by the President of the Senate, in the presence of the Senate and the House of Representatives, and counted. That person having a majority of the electoral votes cast for President is declared to be duly elected. The one who has a majority of the electoral votes cast for Vice-President is also elected to that office.

Election of President by the House of Representatives. — In case no Presidential candidate receives a majority of the electoral votes, the election goes to the House of Representatives, as is provided in the amendment we are considering. Here the three candidates having the highest number of votes are alone considered. The voting is by States. In 1825 John Quincy Adams was elected President in this way. He had fewer popular and fewer electoral votes than Andrew Jackson, but he received the votes of thirteen out of twenty-four States in the House.

Choice of Vice-President by the Senate. — The Senate is called on to select the Vice-President in case no candidate has received a majority of the electoral votes. The two candidates having the highest number of votes are considered. The only instance of the election of a Vice-President in this way occurred in 1837.

Disputed Returns, Election of 1876. — Disputes have arisen, from time to time, over some of the returns of the electoral votes. The most notable contest was that over the returns from Florida, Louisiana, South Carolina, and Oregon, in 1877. If the twenty-one electoral votes from these States should be counted for the Republican candidates, they would be elected. Should just one of those votes be given to the Democratic nominees, the Republicans would lose the election. Now the Senate at this time was Republican, and the House Democratic, and therefore no satisfactory adjustment could be reached, because of party prejudices. The excitement throughout the country was finally relieved by the agreement on the part of both houses to refer the decision to an "Electoral Commission."

This Commission consisted of five Judges of the Supreme Court, five Representatives, and five Senators. After examining the returns, the commission decided, March 2, 1877, by a vote of eight to seven, that Hayes and Wheeler, the Republican candidates, had received the twenty-one votes in dispute, thus giving them one hundred and eighty-five electoral votes, and that Tilden and Hendricks, the Democratic candidates, had received one hundred and eighty-four electoral votes.

In consequence of the grave problem which arose in 1877, Congress passed an act February 3, 1887, which provides that any contest in the choice of electors in a State must be decided by the State authorities under the laws of the State.

The Original Method of choosing the President. — Because Presidents Washington, Adams, and Jefferson for his first term, were chosen by the plan given in the original clause, let us notice, briefly, the method used at that time, and especially the reasons for the change to the present plan.

Section 1, Clause 2. *The Electors shall meet in their respective States, and vote by ballot for two persons, one of whom, at least, shall not be an inhabitant of the same State with themselves. And they shall make a list of all the persons voted for, and of the number of votes for each; which list they sign and certify, and transmit, sealed, to the seat of the govern-*

ment of the United States, directed to the President of the Senate. The President of the Senate shall, in the presence of the Senate and House of Representatives, open all the certificates, and the votes shall then be counted. The person then having the greatest number of votes shall be President, if such number be a majority of the whole number of Electors appointed; and if there be more than one who have such a majority, and have an equal number of votes, then the House of Representatives shall immediately choose, by ballot, one of them for President; and if no person have a majority, then, from the five highest on the list, the said House shall, in like manner, choose the President. But in choosing the President, the votes shall be taken by States, the representation from each State having one vote; a quorum for this purpose shall consist of a member or members from two-thirds of the States, and a majority of all the States be necessary to a choice. In every case, after the choice of the President, the person having the greatest number of votes of the Electors shall be the Vice-President. But if there should remain two or more who have equal votes, the Senate shall choose from them, by ballot, the Vice-President.

According to this clause, we note that the electors voted for two persons without stating which was to be President and which Vice-President. In the official count, the candidate receiving the highest number of votes, provided it was a majority of the whole number of the electoral votes, became President, and the one receiving the next highest became Vice-President.

Election of 1796. — In the election of 1796, John Adams, who received the highest number, seventy-one, out of one hundred and thirty-two electoral votes, was elected President. Thomas Jefferson, his opponent, became Vice-President, having received sixty-eight votes, or the next highest number. Thus there were elected a President of one party and a Vice-President of the opposing party.

Election of 1800. — The election of 1800 also showed the plan to be impracticable. At this time, the Democratic-Republican party was determined to have Mr. Jefferson for President and Aaron Burr for Vice-President. They both received seventy-three votes, a majority of all the votes. But since the number was equal, it devolved upon the House of Representatives to determine whether Jefferson or Burr should be President. For seven days the house was in continuous session, and civil war threatened. On the thirty-sixth ballot, however, Jefferson received the votes of ten States out of sixteen, and was elected.

In order to prevent a recurrence of the conditions which obtained in 1796, or of the dangers incident to a contest like that of 1800, the twelfth Amendment was proposed by Congress, and, after ratification, was declared in force September 25, 1804. This provides, as we have seen, that the electoral votes must be cast separately for President and Vice-President.

The Presidential Term. — Shall the President hold office for a term of three years, of seven years, or during good behavior? These were questions of great interest in the Constitutional Convention. A term of seven years with no reëlection was agreed upon, but toward the end of the Convention the clause as given was adopted.

Reëlection of a President. — The Constitution does not limit the number of terms for which a President may be chosen, but the "third term tradition" has now made it practically impossible for the same man to be elected for more than two terms. This custom was inaugurated by the refusal of President Washington to accept a third term. President Jefferson was also urged to stand for a third term, but he, too, preferred to retire to private life as Washington had done. The adherents of General Grant strove to break down this precedent in 1880, but their defeat seems to have established the tradition more firmly as a rule.

A Longer Term. — It is frequently urged that the Constitution should be amended in such a manner as to provide for a term of six or seven years for the President, with no reëlection. Among the reasons for this change are the following: (1) a new President has most of his time, for months, at the beginning of his term, consumed in hearing the claims of applicants for office, and in making appointments; (2) there is danger that he may be influenced in his official actions through desire to secure a second term; (3) the commercial depression that usually exists during a campaign would thus come less frequently. These arguments may be used in opposition to such a change: (1) in the case of an inefficient President, the short term is to be preferred; (2) the Presidential campaign is of value, in that the attention of Americans generally is for a time fixed on the problems connected with the conduct of our government. It furnishes the opportunity for imparting to our citizens many lessons in their political education.

Qualifications for President and Vice-President. — The qualifications for President and Vice-President are naturally the same, and are as follows: —

Section 1, Clause 4. *No person, except a natural-born citizen, or a citizen of the United States at the time of the adoption of this Constitution, shall be eligible to the office of President; neither shall any person be eligible to that office who shall not have attained to the age of thirty-five years, and been fourteen years a resident within the United States.*

Vacancies. — The chief reason for creating the office of Vice-President seems to have been to provide for the emergency of a vacancy in the Presidency.

Section 1, Clause 5. *In case of the removal of the President from office or of his death, resignation, or inability to discharge the powers and duties of the said office, the same shall devolve on the Vice-President, and the Congress may, by law, provide for the case of removal, death, resignation, or inability both of the President and Vice-President, declaring what officer shall then act as President, and such officer shall act accordingly, until the disability be removed, or a President shall be elected.*

Presidential Succession. — In 1886, Congress provided that in case of the death, resignation, or disability[1] of both President and Vice-President, the succession should be in the following order: Secretary of State, Secretary of the

[1] What constitutes disability has not been settled. President Garfield performed only the single executive act of signing an extradition paper, from July 2 to September 19, 1881. The fact of his inability to discharge the duties of President was not formally established. Nor was there declared disability in the case of President McKinley, between September 6 and the day of his death, September 14, 1901.

Treasury, Secretary of War, Attorney-General, Postmaster-General, Secretary of the Navy, Secretary of the Interior. The Secretary of Agriculture was added in 1889.

Should a cabinet officer become President, through this succession, he would hold the office for the unexpired term.

Salary of the President. — Section 1, Clause 6. *The President shall, at stated times, receive for his services a compensation, which shall neither be increased nor diminished during the period for which he may have been elected, and he shall not receive within that period any other emolument from the United States or any of them.*

In 1873 the salary of the President was changed from $25,000 to $50,000 a year. The custom has been established that no President shall receive a gift from any civil body, such as a city council, a State Legislature, or a foreign state. In addition to his salary, the President is provided with an "executive mansion," the "White House," which is furnished at the expense of the government. The Vice-President receives $8000 annually.

Salaries of Foreign Rulers. — The salary paid our President is small when we compare it with the grants made to European rulers. In 1901 the English government voted some $4,000,000 for the annual use of the royal household. The Czar of Russia receives $6,500,000 annually, in addition to revenues derived from 1,000,000 square miles of crown domains. The President of France receives $231,600 annually.

Inauguration Day. — One of the most notable of our civic festivals occurs on the fourth of March[1] after the

[1] It is frequently urged, with good reason, that this date should be changed to a time of year when the weather in Washington would be more favorable. An amendment, recently sanctioned by the Senate, provides that the date for

Presidential election. Then, thousands of people go to Washington to witness the inaugural exercises, by which the President and Vice-President are formally invested with their offices. The Constitution provides that the President shall take the following oath of office before entering on his duties: —

Section 1, Clause 7. *I do solemnly swear (or affirm) that I will faithfully execute the office of President of the United States, and will to the best of my ability preserve, protect, and defend the Constitution of the United States.*

It has been established, by custom, that the oath shall be administered by the Chief Justice of the United States, at the east front of the Capitol. After taking the oath, the President gives his inaugural address, which outlines the policy he purposes to carry out. Immediately after his inauguration, unless it be his second term, he calls the Senate together, and places before it his nominations for members of the cabinet, and for such other important offices as he may desire to make.

SUPPLEMENTARY QUESTIONS AND REFERENCES.

1. Which of the Presidents have served two terms? How was their election for a second term to be accounted for?
2. The method of calling national political conventions. When held? Questions considered. Make a study of the last convention. Cosmop., 29: 194–200: Scribner's Mag., 27: 643–656.
3. Under what conditions was the first platform of a national convention agreed upon? Wilson, Division and Reunion, 63.
4. For the work of the national committee, see Rev. of R's, 22: 549–556; 556–563.

the inauguration shall be the last Thursday of April. The chief objection to this change seems to be the further extension of time between the election and the assuming of duties.

5. The power of the chairman of the National committee is discussed in Atl. Mo., 89: 76–81.
6. What was the probable origin of the system of electing the President by electors? Harrison, This Country of Ours, 78; Fiske, Critical Period of American History, 66, 280–289.
7. For the methods which have been used in electing a President, see N. Am. Rev., 171: 273–280.
8. Should the President be elected by direct popular vote? N. Am. Rev., 171: 273–280; 281–288; Scribner's Mag., 27: 643–656.
9. For some of the problems connected with the electoral colleges in the history of elections, see Rev. of R's, 23: 66–69.
10. What is the method used in counting the electoral votes? Edmund Alton, Among the Lawmakers, 88–89.
11. Do you agree with Mr. Bryce that the tendency is to select for President men who have not been prominent? Bryce, American Commonwealth, I, chap. 8.
12. Was the present President notable before his election? In what ways?
13. What were the chief causes for the success of his party?
14. How many electoral votes were required for election? He received how many? Did he receive a majority of the popular votes? Election of 1900, Rev. of R's, 22: 673–674; 655–658.
15. How many electors were there from your State? For whom did they vote? How is this majority in your State to be accounted for? Rev. of R's, 22: 673–674, 655–658, 664.
16. Would successful governors make good candidates for President? In what particulars do the offices resemble each other? Would you favor making the governor of your State President? Wilson, Congressional Government, 253, 254.
17. Why was the election of John Quincy Adams of especial interest? What results followed? Burgess, The Middle Period, 140–141; Wilson, Division and Reunion, 18.
18. State the chief points connected with the "disputed election" of 1876. Wilson, Division and Reunion, 283–286; Johnston, American Politics, 233–237; Cent. Mag., 62: 923–934.
19. Give the names of the Presidents who have died in office. By whom were they succeeded?
20. What was the order of succession to the Presidency before 1886?

Why was the change made? James and Sanford, Government in State and Nation, 266.

21. What is a "minority" President? Government in State and Nation, 264.
22. An interesting account of the White House, Outlook, 70: 287–299.
23. Inauguration events of 1901, Rev. of R's, 23: 405, 406; Outlook, 67: 555, 556.
24. Incidents of Presidential inaugurations. World's Work, 1: 477–479.
25. For other questions and references on the chapter, see Government in State and Nation, 255–257, 269, 270.

CHAPTER XIV.

POWERS AND DUTIES OF THE PRESIDENT.

Military Powers of the President. — An eminent historian,[1] writing recently of the power exercised by President Lincoln in time of war, said, " It is an interesting fact, that the ruler of a republic which sprang from a resistance to the English king and Parliament should exercise more arbitrary power than any Englishman since Oliver Cromwell, and that many of his acts should be worthy of a Tudor."

President Lincoln, it is true, exercised powers which, if attempted by a weaker man, or at another time, might have proved dangerous to the liberties of the people.[2] This he did through his interpretation of Clause 1, Section 2.

The President shall be commander-in-chief of the army and navy of the United States, and of the militia of the several States when called into the actual service of the United States; he may require the opinion, in writing, of the principal officer in each of the executive departments, upon any subject relating to the duties of their respective offices, and he shall have power to grant reprieves and pardons for offences against the United States, except in cases of impeachment.

[1] James Ford Rhodes, *Scribner's Magazine*, February, 1903.

[2] For the suspension of the privilege of the writ of *habeas corpus*, see p. 111.

Reprieves and Pardons. — The ordinary powers of the President are also important.[1] One of the greatest is the power to grant reprieves and pardons. A reprieve is the temporary suspension of the execution of a sentence. By means of a reprieve, the President may gain time to look into the evidence more carefully. Complete release from a sentence is secured by a pardon.[2]

Treaty-making Power. — Section 2, Clause 2. *He shall have power, by and with the advice and consent of the Senate, to make treaties, provided two-thirds of the senators present concur.*

While the power to conclude treaties seems to be without restriction, it is implied that no treaty shall in any way interfere with the authority of the Constitution. The usual steps in the negotiation of treaties are as follows: (1) In time of peace they are conducted at the capital of the nation that begins the negotiation. If this is in Washington, the terms are considered by the Secretary of State and the minister of the other nation; if in a foreign capital, our minister acts under instructions sent him by the Secretary of State. At times, one or more special ministers are sent abroad for the purpose of negotiating a treaty. (2) In time of war, the minister of the nation with which we are at war leaves the United States. The interests of his nation are then intrusted to the minister of some neutral power, and through this minister negotiations

[1] For the power of the President over legislation by means of the veto, see pp. 80–81.

[2] President Harrison was called upon to consider 779 requests for pardon. Of these, 527 were granted, wholly or partially. President Cleveland acted on 907 such cases, and granted 506, in whole or in part.

for peace are usually begun. (3) The treaty of peace at the close of a war is generally negotiated in some neutral country by special commissioners appointed by the nations at war.

In all cases, the President exercises general control over the negotiation and framing of treaties. After an agreement has been reached, the treaty is sent to the Senate. It is discussed in executive or secret session. This means that the treaty and all matters pertaining to it are kept secret until, by a resolution, the Senate allows the discussion to be made public. The Senate may approve, reject, or modify the terms. If amendments are made, they must be agreed to by the President and by the other nation interested. When a treaty has been finally approved by the officials of both countries, duplicate copies of it are made on parchment. Both of these copies are signed by the chief officers of each country, and the copies are then exchanged. This is called the "exchange of ratification." An official copy of the treaty is thus secured by each nation. The President then publishes the treaty accompanied by a proclamation, in which it is declared to be a part of the law of the land.

If the terms of a treaty call for the payment of money by the United States, the necessary amount can be appropriated only by an Act of Congress. The House of Representatives may refuse to give its sanction to such an appropriation, and may thus prevent the treaty going into effect.

Power of Appointment. — When it is considered that the President has the nominal power of appointing over 200,000 persons to office, we can readily see that this comprises one of his chief powers. His right to select office-holders

is granted in Section 2, Clause 2. *He shall nominate, and by and with the advice and consent of the Senate, shall appoint Ambassadors, other public ministers and Consuls, Judges of the Supreme Court, and all other officers of the United States, whose appointments are not herein otherwise provided for, and which shall be established by law; but the Congress may by law vest the appointment of such inferior officers, as they think proper, in the President alone, in the courts of law, or in the heads of departments.*

Vacancies. — Section 2, Clause 3. *The President shall have power to fill up all vacancies that may happen during the recess of the Senate, by granting commissions which shall expire at the end of their next session.*

Presidential Appointments. — It would be quite impossible for the President, personally, to oversee all of these appointments, and so a large percentage of them is made by officials in the different departments. There are, besides the ambassadors, consuls, and judges of the Supreme Court, some 7000 so-called Presidential officers, whose appointments must receive the sanction of the Senate. More than one-half of these are postmasters of the first class.[1] Among the most important of these officers are the Cabinet, interstate commerce commissioners, district attorneys, and all military and naval officers whose appointment is not otherwise ordered by law.

Official Patronage. — In making his appointments, the President is largely dependent upon the advice of the head of that department under whose direction the officer will come, or upon the recommendation of the representatives and senators of his party from the State in which

[1] Those who receive an annual salary of $1000 and above.

the office is located. This official patronage, through which political assistants in a State may be rewarded with a Federal office, has become so burdensome that many Congressmen complain of it and desire to be freed from its exactions.

Senatorial Courtesy. — There has grown up an almost invariable custom, known as senatorial courtesy. This demands that if the office to be filled is located in a State, the appointment be not confirmed unless it receives the sanction of one or both of the senators of the State concerned, provided they are members of the same political party as the President.

Action of the Senate on Nominations. — All of the nominations sent by the President to the Senate are submitted to appropriate committees, as, postmasters to the Post Office Committee, ambassadors to the Committee on Foreign Affairs. The report of the committee is considered in secret session, and the nomination is then voted on. If the vote is adverse, the President must make another nomination.

The Spoils System. — During the first forty years of our government there were only seventy-four removals from office. The opinion was general that there were a large number of strictly non-political offices in the departments and elsewhere, the holders of which should be regarded as agents or clerks whose duty it was to assist in carrying on the business of government. Therefore the best results could be secured, it was believed, only as these positions should be filled by persons the most competent, who might hope to retain the office so long as they gave efficient service. But with the coming in of President Jackson the "spoils system" was introduced. This system, in practice, provides that political workers belonging to a victorious party may, as far as possible, receive reward for their services in the shape of some office. "To the victors belong the spoils of the enemy" is the familiar motto of those who have advocated this system. During the first year of

President Jackson's administration 2000 officials were deprived of their offices, and friends of the administration were put in their positions. From that time there has been great pressure on every new President similarly to reward his followers.

Civil Service Reform. — While the evils had been pointed out at various times, little was done to remedy the spoils system until Congress, in 1883, passed the Civil Service Law, known as the Pendleton Bill. It provides for a Civil Service Commission of three members, not more than two of whom may belong to the same political party. This commission gives competitive examinations, which are required for testing the fitness of applicants for certain positions in the public service. The number of offices originally included under the act was about 14,000. The President is given the power to direct the further extension of the "classified service," that is, those positions that are to be filled by persons who have passed the best examinations. In 1902 there were over 120,000 classified offices.[1] While much has been accomplished, during the past twenty years, toward reforming civil service appointments, it is to be hoped that a large number of the unclassified offices will, at an early date, be placed on the list to be filled only after examination.[2] The National government may

[1] Nineteenth Report of the United States Civil Service Commission, 1901–1902, p. 22.

[2] In 1902 there were 116,000 offices unclassified or excepted, some 72,000 of which were fourth-class post offices. During the year 1901–1902, the civil service rules providing for competitive examinations were extended by order of the President or by Act of Congress so as to include the rural free delivery service, employees of the permanent census bureau, and additional employees made necessary because of the war with Spain.

thus further assist in the movement for like reforms already so well begun in some of our States and cities.

Duties of the President. — Section 3. *He shall, from time to time, give to the Congress information of the state of the Union, and recommend to their consideration such measures as he shall judge necessary and expedient; he may, on extraordinary occasions, convene both houses, or either of them, and in case of disagreement between them, with respect to the time of adjournment, he may adjourn them to such time as he shall think proper; he shall receive Ambassadors and other public ministers; he shall take care that the laws be faithfully executed, and shall commission all the officers of the United States.*

Presidential Messages. — By means of the annual message sent to Congress at the opening of the session, and special messages on particular occasions, the President is enabled to call attention to the legislative needs of the country. The plan of having a message read in each House by the clerk or secretary was introduced by President Jefferson. Presidents Washington and Adams addressed, in person, Congress assembled in joint session. Various reasons have been alleged for this change. President Jefferson was a poor speaker, and it is said that he regarded the formal address as monarchical.

Enforcement of the Laws. — The most important duty of the President is to see that all laws passed by Congress are faithfully executed. Laws are useless unless they are enforced, and it is chiefly for the performance of this task that the Executive was originally created. It is not con-

templated that this duty shall be performed by him in person, but through officials who are directly responsible to him. The United States marshals and their deputies exercise a wide influence in seeing that the laws are enforced. They usually act under an order from a United States court, but may, at times, act without such a writ. If necessary, the President may send the army and navy of the United States or call out the militia of the States to overcome any resistance to federal law.

Each State possesses the power of enforcing its own laws and is of right protected in the exercise of this prerogative. In case of an insurrection, however, the State militia is sent by order of the Governor to suppress it. Should they fail to restore order, the Legislature, or the executive (when the Legislature cannot be convened), applies to the President for military aid.[1] If the uprising has interfered in any way with the carrying out of the laws of the nation, the President may, at his discretion, send troops to suppress it without having been asked to do so by the Legislature or the Governor. There was a notable illustration of this point during the time of the Chicago riots, in July, 1894.

President Cleveland *vs.* The Governor of Illinois. — In addition to destroying property belonging to the railways centering in Chicago, the striking employees prevented the free movement of the trains. Mr. Altgeld, then Governor of Illinois, did not provide against these abuses, and President Cleveland ordered the United States troops under General Miles to suppress the rioting. The President, who was severely criticised by Mr. Altgeld, justified his sending the troops on the following grounds: (1) that the processes of the federal courts could not be executed; (2) that the transportation of the United States mails was obstructed; and (3) that the laws on interstate commerce were not enforced.

The United States Supreme Court took the same position as Presi-

[1] Article IV, Section 4. *The United States shall guarantee to every State in this Union a republican form of government, and shall protect each of them against invasion; and on application of the legislature, or the executive (when the legislature cannot be convened), against domestic violence.*

dent Cleveland in a case which grew out of these riots. Mr. Justice Brewer, in delivering the opinion of the court, said: "We hold that the government of the United States is one having jurisdiction over every foot of soil within its territory and acting directly upon each citizen; that while it is a government of enumerated powers, it has within the limits of those powers all the attributes of sovereignty; that to it is committed power over interstate commerce and the transmission of the mails, and that these powers have been assumed and put into practical exercise by the legislation of Congress."

SUPPLEMENTARY QUESTIONS AND REFERENCES.

1. What have been some of the most important treaties entered into on the part of the United States?
2. For the treaty made at the close of the Spanish-American War, see Rev. of R's, 18: 258, 371, 515, 631; 19: 11, 261, 262, 266, 267.
3. In what ways may a treaty be abrogated? Harrison, This Country of Ours, 140, 141.
4. May a President have many of the privileges of private life? Harrison, This Country of Ours, 177–180.
5. What are some of the official cares of the President? Harrison, This Country of Ours, 162–177.
6. The Overworked President, McClure's Mag., 28: 483–492; Rev. of R's, 25: 464–466.
7. Secure a copy of the last report of the Civil Service Commission, and also Manual of Examinations for the Classified Service of the United States, and look up the following: —
   - *a.* How many persons are included in the civil service of the United States?
   - *b.* What proportion of them is included in the classified service?
   - *c.* Does the law of 1883 seem to have brought about satisfactory results?
   - *d.* What offices have been included in the extensions of the Civil Service Law?
   - *e.* What is the nature of the questions asked in the examinations?
8. The Fifteenth Annual Report of the Commission (pp. 443–485) contains an account of the appointments and removals by

the various Presidents from 1789 to 1883. Also an account of the growth of civil service reform in the States and cities of the United States, pp. 489–502.

9. May a man be fitted for political preferment and not be competent to pass an adequate examination?

10. For other articles on civil service reform, see (*a*) The Civil Service and the Merit System, Forum, 27 : 705–712. (*b*) Some Popular Objections to Civil Service Reform, Atl. Mo., 65 : 433–444; 671–678. (*c*) Roosevelt, An Object Lesson in Civil Service Reform, Atl. Mo., 67 : 252–257. (*d*) George William Curtis and Civil Service Reform, Atl. Mo., 75 : 15–24. (*e*) Rice, Improvement of the Civil Service, N. Am. Rev., 161 : 601–611. (*f*) Roosevelt, Present Status of Civil Service Reform, Atl. Mo., 75 : 239–246. (*g*) Roosevelt, Six Years of Civil Service Reform, Scribner's Mag., 18 : 238–247. (*h*) The purpose of Civil Service Reform, Forum, 30 : 608–619.

11. What was the Tenure of Office Act of 1867? Why did it become of great importance? Is it still in force? Wilson, Division and Reunion, 267, 270–271, 297; Harrison, This Country of Ours, 101–103.

12. What were the chief points discussed in the President's last annual message?

CHAPTER XV.

THE CABINET.

Formation of Departments. — The Constitution nowhere mentions the President's Cabinet. It was taken for granted, however, that departments similar to those found in the Cabinet would be formed. The Constitution declares that the President "may require the opinions in writing of the heads of the executive departments," and again, that "Congress may vest the appointment of certain inferior officers in the heads of these departments."

In 1789 the first Congress created the Departments of State, War, and Treasury, also the office of Attorney-General. President Washington's Cabinet consisted of the officials whom he appointed to fill these four positions. The Navy Department was added in 1798. While a Post-Office Department was established in 1794, the Postmaster-General was not made a member of the Cabinet until 1829. In 1849, the Interior Department was created by grouping under it certain duties which had belonged to other departments. The Department of Agriculture was made a Cabinet position in 1889. In 1903 the Department of Commerce and Labor was authorized by an act of Congress. Members of the Cabinet receive an annual salary of $8000.

The President and his Cabinet. — One of the first official acts of a President is to send to the Senate, for its

approval, the names of the men whom he desires shall constitute his Cabinet. This is now a mere formality. The President is himself the one most interested in the success of his administration and is of right given complete freedom in selecting his immediate advisers. While the views of the members of the Cabinet usually have weight with the President, he is not obliged to take their advice. Indeed, in some instances the President has carried out a line of action which was against the wishes of the secretary of the department affected.

The Department of State.

The Secretary of State. — The Secretary of State is commonly called the head of the Cabinet. He is first in rank at the Cabinet table, and occupies the seat of dignity at the right of the President. Under the direction of the President he conducts all negotiations relating to the foreign affairs of the nation; carries on the correspondence with our representatives in other countries; receives the representatives of foreign powers accredited to the United States, and presents them to the President. Through him, the President communicates with the executives of the different States. He has charge of the treaties made with foreign powers, and negotiates new ones. He also has in his keeping the laws of the United States and the great seal which he affixes to all executive proclamations, commissions, and other official papers.

The Diplomatic Bureau. —The United States, in common with other nations, sends representatives to the foreign capitals. They are the agents through whom the Secre-

tary of State communicates and negotiates with other powers. Such affairs are conducted through the Diplomatic Bureau. The United States has now about thirty-five ambassadors and ministers. Our representatives at the courts of England, France, Germany, Russia, Italy, Austria, and Mexico are known as ambassadors. The ambassadors to the first four countries receive a salary of $17,500 each.

The social demands made upon our Ambassadors are great, and they are also obliged to provide for their places of residence. The salaries paid are not sufficient to meet these necessary expenses, and are small in comparison with those paid by the European nations to officers of the same rank. Thus, the English Ambassador at Washington receives a salary of $32,500. Besides the English, the German, the Japanese, and some other nations have provided houses for their legations.

The Consular Bureau. — A consul is sent by the United States to each of the chief cities in the consular districts into which foreign countries are divided by our State Department. These consuls, of whom there are three grades, Consuls-General, Consuls, and Consular Agents, look after the commercial interests of the United States in those districts. They make monthly reports on improvements in agricultural and manufacturing processes. These reports also give information regarding good markets for our products and of the best markets in which to purchase foreign products.[1] Consuls care for destitute American sailors and protect the interests of our citizens in foreign countries. In some of the non-Christian nations, such as

[1] Among scores of similar subjects, our consuls reported in 1900 on the following: American goods in Syria ; American commerce with Asia Minor and eastern Europe ; German opinion of American locomotives ; American coal in Germany ; Europe and American competition.

China and Turkey, they also have jurisdiction over all criminal cases in which any American citizen may be a party. The importance of such services to our country is self-evident. The appointment of these 765 officials, together with their subordinates, is usually secured under party pressure. It would have a wholesome influence on our rapidly developing commercial interests were these positions placed in the classified service.[1]

The Department of the Treasury.

The Secretary of the Treasury. — The Department of the Treasury is the most extensive and complex of the executive departments. In general, the Secretary of the Treasury has charge of the finances of the nation. He is required to prepare plans for the creation and improvement of the revenues and the public credit and to superintend the collection of the revenue. He gives orders for all moneys drawn from the Treasury in accordance with appropriations made by Congress, and submits an annual report to Congress which contains an estimate of the probable receipts and expenditures of the government.

The Auditors. — It is very important that the accounts of the government should be carefully scrutinized, and one of the six auditors connected with the Treasury Department must pass upon the accounts of every public officer who pays out money. Thus, the Auditor for the Treasury Department examines all accounts of salaries and incidental expenses of the office of the Secretary of the Treasury and all other offices under his immediate direction, such as the Treasurer and Directors of the Mints.

The Treasurer. — All the money of the United States is under the care of the Treasurer. He receives and pays it out upon the warrant of

[1] See report Civil Service Commission, 1901–1902, p. 32.

the Secretary of the Treasury or a designated assistant, redeems the notes of the National banks, and manages the Independent Treasury System. This system renders the Treasury Department practically independent of the banks of the country. It includes the Treasury at Washington and sub-treasuries, each in charge of an assistant treasurer at Boston, New York, Philadelphia, Baltimore, Cincinnati, Chicago, St. Louis, New Orleans, and San Francisco. While the greater part of the money belonging to the government is found in these places, about two hundred National banks have also been designated as public depositories.

The Chief of the Bureau of Engraving and Printing. — The Bureau [1] of Engraving and Printing is one of the largest in the department and employs about 1600 people. It has been said that the products of this bureau, in the course of a single year, represent a sum equal in value to all the money in circulation in the United States; for here the engraving of the plates and the printing of all the United States circulating notes, bonds, revenue stamps, and postage stamps are done.

Other Officers of the Treasury Department. — Among the other leading officials of the Treasury Department are: Comptroller of the Currency (see p. 92), Commissioner of Internal Revenue (see p. 85), General Superintendent of the Life-saving Service, Solicitor of the Treasury, Supervising Surgeon-General, and Supervising Architect.

The Life-saving Service. — This is one of the most important offices in the Treasury Department. More than 2000 men are employed in the 264 stations, located generally at danger points on the oceans and the Great Lakes. Out of the 3987 lives imperiled in the year 1898 in the disasters on water, only 22 were lost.[2] Of the property involved, which was valued at $7,368,000, 88 per cent was saved. It has been estimated that 225,000 lives have been saved through this service since it was founded in 1848.

The Solicitor of the Treasury. — The Solicitor of the Treasury is the law officer of the department, and has charge of all prosecutions

[1] The work of each department is usually distributed among the bureaus. Bureaus are again divided into divisions. At the head of each bureau is a commissioner, and of each division a chief.

[2] Finance Report, 1898, lxxxiv.

by the government arising out of the counterfeiting of the government securities, or of the infringement of customs revenue, and of all suits for the collection of moneys due the United States, except those due under the internal revenue laws.

The Supervising Surgeon-General. — The Supervising Surgeon-General superintends the twenty-two marine hospitals where our sick sailors are cared for; conducts the quarantine service of the United States; and directs the laboratories for the investigation of the causes of contagious diseases.

The War Department.

The Secretary of War. — The Secretary of War, under the direction of the President, has charge of the military affairs of the government. He supervises all estimates of appropriations for the expenses of the department.[1] He has under his supervision also the military academy at West Point, all national cemeteries, and river and harbor improvement. The chiefs of the eleven bureaus are regular army officers.

The Adjutant-General. — The Adjutant-General issues orders for the muster of troops and for their movement, conducts the correspondence of the department, and keeps the records.

The Inspector-General. — The Inspector-General examines and reports on all places where United States troops are stationed; on public works carried on by army officers; and on the military academy and prisons.

The Quartermaster-General. — Under direction of the Quartermaster-General the army is transported, clothed, and equipped.

The Chief of Ordnance. — Arms are supplied by the Chief of Ordnance. The arms used are manufactured chiefly in the United States arsenals. The arsenals at Springfield, Mass., and Rock Island, Ill., manufacture rifles and carbines; and that at West Troy, N.Y., cannon and mortars.

[1] The annual appropriation by Congress for the army alone in 1903 amounted to $78,138,752.

The United States Military Academy. — The United States Military Academy at West Point was founded in 1802. The corps of cadets is made up of one cadet from each of the Congressional districts, one from each of the Territories and the District of Columbia, and one hundred from the United States at large. Prior to the year 1900 there were only ten cadets at large. The act of that year also provided that thirty cadets were to be named by the President directly and the remainder apportioned among the States. They all receive their appointments from the President, but it has become the custom for the representatives and delegates to select (usually after a competitive examination) those from the Congressional districts and the Territories. The cadet must be between seventeen and twenty-two years of age. Each receives $540 a year during the four years of his course. Upon graduation, the cadets are commissioned as second lieutenants in the United States army. In case there are more graduates than vacancies, those in excess are honorably discharged with the payment of one year's salary.

The Navy Department.

The Secretary of the Navy. — The duties of the Secretary of the Navy pertain to the construction, manning, arming, equipping, and employment of war-vessels.[1]

The United States Naval Academy. — The naval academy at Annapolis was established in 1846. One cadet is allowed in the naval academy for each member or delegate of the House of Representatives, one for the District of Columbia, and ten at large. Candidates for admission, at the time for their examination, must be between the ages of fifteen and twenty years. The nomination of a candidate to fill a vacancy is made upon recommendation of a representative or delegate if made before July 1; but if no recommendation be made by that time, the Secretary of the Navy fills the vacancy by appointing an actual resident of the district in which the vacancy exists. The President selects the candidates at large and the cadet for the District of Columbia. At the conclusion of the six years' course, two of which are spent at sea, the

[1] The appropriation for this department in 1903 was $81,877,291.

graduates are assigned in order of merit to the vacancies that may have occurred in the lower grades of the line of the navy and of the marine corps. Cadets who are not assigned to service after graduation are honorably discharged and are given $500, the amount they have received each year of their course at the academy.

The Department of Justice.

The Attorney-General. — The Attorney-General is the legal adviser of the President and of the heads of the departments. He supervises the work of all the United States district attorneys and marshals, and is assisted by the Solicitor-General. Unless otherwise directed, all cases before the Supreme Court and the Court of Claims in which the United States is a party are argued by the Attorney-General and the Solicitor-General.

The Post Office Department.

The Postmaster-General. — The Postmaster-General is at the head of this department. He appoints all of the officers of the department with the exception of the four assistant postmaster-generals and postmasters of the first class, whose appointments are made by the President with the consent of the Senate. The Postmaster-General may, with the consent of the President, let contracts and make postal treaties with foreign governments.

The Postal Union. — Since 1891 the United States has been a member of the Universal Postal Union. By this union over fifty distinct powers became parties to an agreement by which uniform rates of postage were agreed upon and every facility for carrying mails in each country was extended to all the others.

The Department of the Interior.

The Secretary of the Interior. — The Interior Department, under the supervision of the Secretary of the Interior, is one of the most complex and important of the departments. There are two assistant secretaries in the department, while at the head of the other offices are six commissioners and two directors.

The Commissioner of the General Land Office. — The Commissioner of the General Land Office has charge of all the public lands of the government, and supervises the surveys, sales, and issuing of titles to this property (see p. 170).

The Commissioner of Education. — The Commissioner of Education is the chief of the Bureau of Education. This bureau has charge of the collection of facts and statistics relating to the educational systems and to progress along educational lines in the several States and Territories, and also in foreign countries. The reports issued by the bureau are of great value to those interested in education. The commissioner has advisory power only, except in Alaska. Here he directs the management of the schools.

The Commissioner of Pensions. — The Commissioner of Pensions supervises the examination and adjustment of all claims arising under the laws of Congress granting bounty land or pensions on account of services in the army or navy during the time of war. That our government has not been ungrateful may be gathered from the report of the commissioner for 1902. There were in that year 999,446 pensioners, to whom were paid approximately $140,000,000, or an amount equal to 24 per cent of the total revenues of the government.

The Commissioner of Indian Affairs. — Prior to 1871 the Indian tribes were treated as independent nations by the United States, but by a law of that year the general government was made the guardian of their interests. The Commissioner of Indian Affairs exercises a protecting care over these "wards" by directing the work of the Indian agents and of the superintendents of Indian schools.

There are some 145,283 Indians on the 177 reservations which are in the various States and Territories.[1] The lands of these reservations are held in common; that is, the ownership is tribal rather than individual. It is the policy of the government, however, to bring about the allotment of lands "in severalty," and thus to encourage the Indians to adopt an agricultural life. The Indians are only partially self-supporting. Some tribes derive an income from funds which are the proceeds derived from the sales and cessions of their lands. The National government holds this money in trust for them, and, by direct appropriation, supplies the money, food, and clothing necessary to complete their support. The appropriation for the Indians in 1903 was $8,512,950. Over one-fourth of this sum was spent for their education in Indian schools, numbering nearly 300, which are under the direct control of the department.

The Director of the Geological Survey. — The Director of the Geological Survey collects much valuable information through the examination of the geological structure, mineral resources, and mineral products of the United States. He has charge, also, of the survey of the forest reserves.

The Department of Agriculture.

The Secretary of Agriculture. — The duties of the Secretary of Agriculture are, "To acquire and diffuse among the people of the United States useful information on subjects connected with agriculture in the most comprehensive sense of that word." The activities of the department are along many lines, as indicated by the names of the bureaus and divisions.

Bureau of Animal Industry. — Continuous advancement is being made by the government toward placing the agricultural pursuits upon a more scientific basis. One of its most important services is performed in the Bureau of Animal Industry, which inspects the greater part of

[1] Census of 1900. This number does not include the Indians found in the Indian Territory. According to this census the total number of Indians then in the United States was 331,000.

the meat products exported to European countries. The law providing for this inspection was necessary because of the claim in European markets that diseased meats were shipped from the United States. An inspection is also provided for live animals intended for exportation and for animals imported. Much scientific work is also devoted to a study of the various diseases of animals.

The Division of Seeds.— Over $100,000 are expended each year by the Division of Seeds in the purchase of "rare and valuable" seeds, bulbs, and plants. These are distributed free throughout the country for the purpose of fostering the introduction of new and more valuable crops.

Public Road Inquiries. — Another important interest is carried on by the Office of Public Road Inquiries. Here experiments are made with regard to the best system of road-making and the best materials to be used for that purpose.

Weather Bureau.— Through the Weather Bureau daily forecasts and warning of storms are sent to over 50,000 different points, and storm signals are displayed at 300 places on our coasts. By its operation, millions of dollars are saved each year to the agricultural and maritime interests of the country. A recent decree of the Post-Office Department renders the reports of the bureau of still greater service. Slips of paper having the storm, frost, or other warnings printed on them are distributed by the rural mail carriers at the various houses in the districts affected.

The Department of Commerce and Labor.

Nature of the Department. — Because of the nature of the subjects assigned to this new department, it will rapidly become one of the most important of the departments. At the head of the department is a secretary. Strictly speaking, there have been only two bureaus created for the department, the others having been transferred from the other departments. The new bureaus are those of Corporations and of Manufactures. The Commissioner of Corporations is expected to investigate the

organization, conduct, and management of the business of corporations and other combinations engaged in interstate commerce, and to see that all anti-trust laws enacted by Congress are enforced. The duties of the Commissioner of Manufactures, as defined by the law, are "to foster, promote, and develop the various manufacturing industries of the United States and markets for the same at home and abroad by gathering, compiling, publishing, and supplying all available and useful information concerning such industries and such markets, and by such other methods and means as may be prescribed by the secretary or provided by law." The President is given the power to transfer to the department those bureaus in other departments which are engaged in scientific or statistical work, the Interstate Commerce Commission and the scientific divisions of the Agricultural Department being excepted. The offices which have been transferred are as follows: the Bureau of Statistics; Census and Immigration bureaus; Bureau of Foreign Commerce of the State Department; the Bureau of Standards of Weights and Measures; Bureau of Navigation and the Shipping Commissioners; the Steamboat Inspection Service; Fish Commission; Coast and Geodetic Survey, and Lighthouse Board.

The Chief of the Bureau of Statistics. — The Chief of the Bureau of Statistics collects and publishes the annual statistics on commerce. These reports are of such a character that they are invaluable to the President in the preparation of his messages; and they are used extensively by the heads of departments, members of Congress, and the public. Tariff laws, special legislation for particular industries, and all international trade treaties are also based on these compilations. The greatest demand is for the Annual Statistical Abstract, which presents in a condensed form the history of the commerce of the United States for a number of preceding years.

The Commissioner of Immigration. — The Commissioner of Immigration superintends the work done by the inspectors of immigrants. Every immigrant must undergo a rigid examination in order to ascertain whether he belongs to any of the prohibited classes.[1] Each immigrant must pay a tax of one dollar, which sum is used to pay the expenses of the bureau. The work of the Census Bureau was described on pages 55–56, and the Bureau of Weights and Measures, page 84.

The Superintendent of the Coast and Geodetic Survey. — This officer superintends the survey of the coasts and rivers of the United States. He has charge of the publication of charts and sailing directions which are of inestimable value to mariners.

The Lighthouse Board. — The Lighthouse Board has charge of the lighthouses, of which 1199 had been established previous to the year 1899, besides the light vessels and beacons used for the protection of navigation.

SUPPLEMENTARY QUESTIONS AND REFERENCES.

1. Does the President select the members of his Cabinet from among former members of Congress? Would this be desirable?
2. Have the members of the Cabinet ever been allowed to appear before Congress in the interests of their own departments? Would this be desirable? Walker, The Making of the Nation, 92; Bryce, American Commonwealth, I, Chapter 9; Atl. Mo. 65: 771–772.
3. Who are now the heads of the executive departments? Were they prominent in National affairs before they were selected for these positions?
4. In 1901 a bill was introduced in the House of Representatives which provided for an increase of the annual salary of the Vice-President to $25,000, and that of each member of the Cabinet to $15,000. What reasons can you give for or against such a change?

[1] Three thousand two hundred and twenty-nine immigrants were debarred in 1897 out of 229,299 immigrants seeking admission to the United States. In 1899 there were 300,165 immigrants to the United States, and 3798 were refused admission. Of these there were 2599 paupers; 741 contract laborers; 348 diseased persons; 82 assisted immigrants; 19 insane persons; 8 convicts; and 1 idiot.

5. What was the history of the State Department prior to 1789? Harrison, This Country of Ours, 182–187.
6. Give a list of the Presidents who have been Secretaries of State. How do you account for this policy in the first years of our government, and not at a later time? Name some of the other prominent Secretaries of State.
7. Who are our ambassadors? Can you give the name of any foreign ambassadors in Washington? See Congressional Directory.
8. The methods by which our ministers are selected, take possession of their offices, and are presented at foreign courts, are described in Curtis, The United States and Foreign Powers, 15–21.
9. The Duties of Ministers. Curtis, The United States and Foreign Powers, 22–26.
10. Are our ambassadors given adequate salaries? Curtis, The United States and Foreign Powers, 13, 14.
11. From a consular report learn what the duties of a consul are. Curtis, The United States and Foreign Powers, 30–33.
12. For an account of our consular service, a comparison with that of other nations, and a consideration of some of the weaknesses in our system, see Curtis, The United States and Foreign Powers, 28–30.
13. A Business Man and the Consular Service, Century Mag. 60 : 268–271.
14. Abuses in our Consular System arising through Appointment, Atl. Mo. 85 : 455–466, and 669–683.
15. A Plea for Consular Inspection, Forum, 30 : 28–34.
16. What is the Great Seal of the United States, and what is its use? Harrison, This Country of Ours, 199–200.
17. What is the particular work of the Marine Department? of the Steamboat Inspection Service? of the Marine Hospital? Lyman J. Gage, Organization of the Treasury Department, Cosmopolitan, 25 : 355–365.
18. What is the work of the Bureau of Engraving and Printing? Spofford, The Government as a Great Publisher, Forum, 19 : 338–349.
19. What is the extent of our merchant marine? Should it be increased? Statistical Abstract of the United States, 1900, 437–450.

20. From the Appendix to the last Finance Report get the chief points connected with the work of the following officials: Treasurer, Report, 1898, Appendix, 1–20; Chief of the Secret Service Division, 861–867. A good description of the Treasury Department is given in Scribner's Mag., 33: 400 411.
21. From the last report of the Bureau of Statistics find answers for the following: The expenditures of the government in the different departments; value of merchandise imported and exported; amounts of coin, wheat, cotton, wool, and iron produced, imported, and exported; the chief nationalities of immigrants, and comparison of the total number with previous years.
22. Are our coasts well defended? Harrison, This Country of Ours, 225.
23. Describe the work of the President, Secretary of War, Secretary of the Navy, and of the other Cabinet officers at the outbreak of war, Cosmop. 25: 255–264.
24. For illustrated articles on Education at West Point and Annapolis, see Outlook, 59: 839–849, 825–837.
25. Comparison of our Pension System with that of other Nations, Forum, 33: 346–348.
26. Defects in our Pension System, Forum, 31: 670–680.
27. Changing Character of the Immigration to the United States, Rev. of R's, 24: 723, 724.
28. Why the Chinese should be excluded, Forum, 33: 53–59.
29. Why the Chinese should be admitted, Forum, 33: 50–68.
30. Influence of the Allotment of Land on the Indian, Forum, 34: 466–480.
31. Results of the Work of Experiment Stations, Scribner's Mag., 31: 643–660.
32. For accounts of the new Congressional Library, see Century Mag., 53: 682–694; 694–711; Atl. Mo., 85: 145–158; Cosmop., 23: 10–20.
33. What is the special value of the work of the Bureau of American Republics? Forum, 30: 21–27.

For other questions and references on the topics in this chapter consult Government in State and Nation, 299–302.

CHAPTER XVI.

THE NATIONAL JUDICIARY.

Article III.

Establishment of an Independent Tribunal. — Alexander Hamilton characterized the lack of a judiciary as the crowning defect of government under the Confederation. If we consider the nature of our present government, it is easily seen that some form of independent tribunal is necessary. We have a central government exercising complete control over National affairs and foreign relations and, at the same time, the State governments with equally complete control over questions arising within their limits. If differences arise, then, as to the authority of National or State government over a given question, how are these disputes to be settled peaceably? After a brief discussion, the problem was answered in the Constitutional Convention by the formation of a federal judiciary.

Organization of the Judiciary. — The organization of the judiciary is provided for as follows: Section 1. *The judicial power of the United States shall be vested in one Supreme Court, and in such inferior courts as the Congress may from time to time ordain and establish. The judges,*

both of the Supreme and inferior courts, shall hold their offices during good behavior, and shall, at stated times, receive for their services a compensation which shall not be diminished during their continuance in office.

In 1789 Congress provided that the Supreme Court should consist of a Chief Justice and five Associates. Circuit and District Courts were also established. The Supreme Court at present consists of the Chief Justice and eight Associate Justices. It holds one session annually, at Washington, beginning on the second Monday in October and continuing until about May 1.

District Courts. — The territory of the United States has been divided into judicial districts, none of them crossing State lines and each having a District Court. New York and Texas have each four districts; Alabama, Indian Territory, Pennsylvania, and Tennessee three each; Arkansas, California, Florida, Georgia, Illinois, Iowa, Kentucky, Louisiana, Mississippi, Michigan, Missouri, North Carolina, Ohio, Virginia, Wisconsin, and West Virginia two each; and the remaining States have each a single district. New Mexico and Oklahoma constitute a district, and also Alaska, Arizona, and Hawaii. Generally there is a judge for each district, but a single judge is at times assigned to two districts.

A District Attorney and Marshal are appointed by the President for each District Court. The United States District Attorney is required to prosecute all persons accused of the violation of Federal law and to appear as defendant in cases brought against the government of the United States in his district. The United States Marshals execute the warrants or other orders of the United States District and Circuit Courts and, in general, perform duties connected with the enforcement of the federal laws which resemble the duties of sheriffs under State laws.

Circuit Courts. — Circuit Courts are next higher than the District Courts in the series of federal courts. The policy has been to have as many Circuit Courts as there are Justices of the Supreme Court. The areas of the circuits were determined by grouping several districts together; thus, the seventh circuit includes the districts of Indiana, Northern and Southern Illinois, Eastern and Western Wisconsin.

Circuit Courts may be held by a Judge of the Supreme Court assigned to that circuit, by a Circuit Judge, or by the District Judge of the district in which the court is held, or by any two of these or by all of them sitting together. The law requires that the Justice of the Supreme Court shall attend court in each district of his circuit at least once in two years. Each of the circuits, the first and the fourth being excepted, has now (1903) three Circuit Judges. The increase in the number of cases to be tried before the Circuit Courts made the appointment of additional Circuit Judges necessary, and by the law of 1891, also, nine Circuit Courts of Appeals were established, for each of which an additional Circuit Judge was provided. The Circuit Courts of Appeals consist of three Judges each, any two constituting a quorum. The Judges eligible to sit in one of these courts are: the Supreme Court Judge assigned the Circuit, the Circuit Judges, and the District Judges of the Circuit.

The Court of Claims was established in 1855 and consists of a Chief Justice and four Associates. It holds an annual session in Washington.

Terms and Salaries of the Judges. — That the judiciary should be independent of parties and of other influences cannot be questioned. Hence the wisdom of the provision that United States judges shall hold their offices during good behavior and shall receive a compensation for their services which shall not be diminished during their continuance in office. Judges of the United States courts are appointed by the President with the consent of the Senate.

By an act of Congress of 1903, the salary of the Chief Justice was fixed at $13,000 per annum; that of Associate Justices, $12,000; Circuit Judges, $7500; and District Judges, $6000.

Jurisdiction of the National Courts. — We are next to consider the jurisdiction of the several courts that have been described.

Section 2, Clause 1. *The judicial power shall extend to all cases, in law and equity, arising under this Constitution, the laws of the United States, and treaties made, or which*

shall be made, under their authority; — to all cases affecting Ambassadors, other public ministers and Consuls; — to all cases of admiralty and maritime jurisdiction; — to controversies to which the United States shall be a party; — to controversies between two or more States; — between a State and citizens of another State; — between citizens of different States; — between citizens of the same State claiming lands under grants of different States, and between a State, or the citizens thereof, and foreign states, citizens or subjects. A careful consideration of this clause shows the wide extent of the powers of the United States courts. It shows also the desirability of having all such cases under their jurisdiction rather than under the authority of the State courts. Associate Justice Brewer wrote recently, with reference to the influence of the decisions of the Supreme Court on the history of the country:[1] "Its decisions have always been in harmony with and sustaining the proposition that this republic is a nation acting directly upon all its citizens, with the attributes and authority of a nation, and not a mere league or confederacy of States. The importance of this cannot be overestimated, and will be appreciated by all who compare the weakness of the old confederacy with the strength and vigor of the republic under the present Constitution."

Suit against a State by a Citizen of Another State. — In the notable case of Chisholm *vs.* Georgia in 1793, Chisholm, a citizen of North Carolina, began action against the State of Georgia in the Supreme Court of the United States. That court interpreted the clause as applying to cases in which a State is defendant, as well as to those in which it is plaintiff. The decision was received with disfavor by the States,

[1] "The Supreme Court of the United States," *Scribner's Magazine*, Vol. 33: 275, 276.

and Congress proposed the XIth Amendment to the Constitution, which was ratified in 1798 and is as follows: —

The judicial power of the United States shall not be construed to extend to any suit in law or equity, commenced or prosecuted against one of the United States, by citizens of another State, or by citizens or subjects of any foreign state.

Original and Appellate Jurisdiction. — Clause 2. *In all cases affecting Ambassadors, other public ministers and Consuls, and those in which a State shall be party, the Supreme Court shall have original jurisdiction. In all the other cases before mentioned, the Supreme Court shall have appellate jurisdiction, both as to law and fact, with such exceptions, and under such regulations as the Congress shall make.*

The Supreme Court has original jurisdiction in "all cases affecting Ambassadors, other public ministers, and Consuls, and those in which a State shall be a party." Original jurisdiction means that these cases may be begun in the Supreme Court. Other cases are brought to the Supreme Court from the inferior United States courts or from the supreme courts of the States and Territories by appeal. In such cases the Supreme Court is said to have appellate jurisdiction.

Jurisdiction of the Inferior Courts. — It is difficult in brief space to define minutely the province of each court. The following accounts, therefore, give only a general description: —

The Circuit Courts of Appeals are given final jurisdiction in certain cases appealed to them from the District and from the Circuit Courts, such as those arising under the patent, revenue, and criminal laws, as well as admiralty and other cases in which the opposing parties to a suit are an alien and a citizen, or are citizens of different States. The Supreme Court has thus been partially relieved from an overcrowded

docket. But jurisdiction in these cases may be assumed by the Supreme Court if it desires to do so.

The Circuit Courts have jurisdiction of cases where the amount involved, exclusive of interest and costs, is at least $2000. Circuit Courts have original jurisdiction in patent and copyright cases, and in cases brought by the United States against National banks. They have exclusive jurisdiction in capital cases. "The jurisdiction of the District Courts embraces chiefly criminal cases, admiralty cases, bankruptcy proceedings, suits for penalties, and the like."

The Court of Claims "shall hear and determine all claims founded upon any law of Congress, or upon any regulation of an executive department, or upon any contract, express or implied, with the government of the United States, which may be suggested to it by a petition filed therein; and also all claims which may be referred to said Court by either House of Congress." [1]

Trial by Jury. — The right of trial by jury in all criminal cases had been insisted upon by Englishmen for centuries prior to the formation of our Constitution. There were two branches to the system, the grand and the petit juries. Each performed the same duties as they do now. The Constitution provides in Section 2, Clause 1, that

The trial of all crimes, except in cases of impeachment, shall be by jury, and such trial shall be held in the State where the said crime shall have been committed; but when not committed within any State, the trial shall be at such place or places as the Congress may by law have directed.

This clause was attacked by the opponents of the Constitution in the State conventions. It was believed that the Constitution did not furnish adequate safeguards against unjust prosecutions. Because of this agitation, Congress, in its first session, proposed Amendments V, VI, VII, and VIII, which were duly ratified by the several States.

Amendment V. *No person shall be held to answer for*

[1] 10 Statutes at Large, 612.

a capital, or otherwise infamous crime, unless on a presentment or indictment of a grand jury, etc.[1]

Authorities have had difficulty in giving an exact definition of an infamous crime. That given by Judge Cooley is the most satisfactory. He says: "But the punishment of the penitentiary must always be deemed infamous, and so must any punishment that involves the loss of civil or political privileges."

The Grand Jury. — A grand jury consists of from twelve to twenty-three men. They sit in secret, and no accusation can be made by them without the concurrence of at least twelve. An indictment is a written accusation of an offense drawn up by a prosecuting officer on behalf of the government and laid before the grand jury. "A presentment is an accusation by a grand jury of an offence upon their own observation and knowledge, or upon evidence before them, and without any bill of indictment laid before them at the suit of government."[2] In the case of a presentment, the party accused cannot be held to trial until he has been indicted. After hearing the evidence, if the grand jury concludes that the accusation is not true, they write on the back of the bill, "Not a true bill" or "Not found." The accused, if held in custody, is then given his freedom, but he may be again indicted by another grand jury. If the grand jury decides that the accusation is true, they then write on the back of the bill, "A true bill" or "Found." The indicted person must be held to answer the charges made against him.

[1] See Appendix A.

[2] Story, "Commentaries on the Constitution," § 1784.

Rights of the Accused. — Amendment VI. *In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, etc.* (*see Appendix A*).

Amendment VII. *In suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved, and no fact tried by a jury shall be otherwise reëxamined in any court of the United States, than according to the rules of the common law.*

The accused must be given a public and speedy trial before an impartial jury, known as the petit jury, consisting of twelve men from the district wherein the crime was committed. The decision must be unanimous before a verdict can be rendered. The accused is given a copy of the indictment in which the nature of the accusation is clearly set forth and is granted time in which to prepare for his defense. Equally just and significant are the provisions that he shall be confronted by the witnesses against him, may compel the attendance of witnesses in his favor, and may employ counsel for his defense. In case he is not able to pay for his own counsel, the judge appoints one whose services are paid for out of the public treasury. If the verdict has been rendered by a jury and the judgment pronounced, the accused cannot be again brought to trial on the same charge.

SUPPLEMENTARY QUESTIONS AND REFERENCES.

1. What are the names of the members of the Supreme Court at present? Congressional Directory.
2. How large are the circuit and district in which your home is located? Who are the judges? Congressional Directory.

3. Under what conditions may a case be appealed from the Supreme Court of the State to the United States Supreme Court? Bryce, American Commonwealth, I, 228–230 (232–234).
4. How is the fact that conflicts between the authority of the Federal and the State Courts do not arise, accounted for? Bryce, I, 234–235 (238).
5. Are the United States Courts influenced in their decisions by politics? Bryce, I, 259–261 (265–267).
6. Define treason and the punishment therefor. Constitution, Art. III, Sec. 3, Clauses 1 and 2. See Government in State and Nation, 312, 313.
7. Describe the influence of John Marshall as Chief Justice.
   (*a.*) John Marshall, American Statesmen Series, Chapters X and XI.
   (*b.*) Bryce, I, 261 (267).
   (*c.*) Lodge, "John Marshall, Statesman," N. Am. Rev., 172: 191–204.
   (*d.*) John Marshall, Atl. Mo., 87: 328–341.
8. Show how the development of our Constitution by interpretation has been brought about. Bryce, I, 366–375 (376–385).
9. What has been the influence of the Supreme Court in the history of our Nation? Scribner's Mag., 33: 273–284.

CHAPTER XVII.

TERRITORIES AND PUBLIC LANDS.

The History of Territories. — The first Territories of the United States were formed in the region lying north of the Ohio River and east of the Mississippi River. Here several of the original States (viz., Massachusetts, Connecticut, New York, and Virginia) had had claims, which they ceded to the general government during the period of the Confederation. The Ordinance of 1787 was the instrument of government for the entire Northwest Territory until the adoption of the Constitution, when it was reënacted by the new Congress in 1791. In the years that followed, special acts were passed for the government of the different Territories that were erected where now we find the States of Ohio, Indiana, Illinois, Michigan, and Wisconsin. In like manner, the region lying south of Kentucky was ceded to the United States by the Carolinas and Georgia, and was then formed into Territories and governed by Congress. Next, the Louisiana Purchase, Florida, the Mexican Cession, and the Oregon Territory came under the control of Congress; a succession of Territories was thus created, the most of which have subsequently been admitted into the Union as States. In the government of these Territories, Congress has acted in accordance with an important power granted to it by the Constitution

Article IV, Section 3, Clause 3. *The Congress shall have power to dispose of and make all needful rules and regulations respecting the territory or other property belonging to the United States.*

The Government of Organized Territories. — Territories may be classified as (1) organized and (2) unorganized. Of the former we have at present Porto Rico, Hawaii, New Mexico, Arizona, and Oklahoma.

The governing authorities in each are: (1) a governor, appointed by the President, with the consent of the Senate; (2) administrative officers — secretary, treasurer, auditor, attorney-general, adjutant-general, and superintendent of education, all appointed in the same way; (3) a legislature consisting of two houses, the members of which are elected by popular vote; (4) a system of courts in which the judges are appointed by the President and Senate.

Relations between Territories and Congress. — A Territory is organized by an act of Congress which provides for these officers and prescribes their powers. The territorial legislature controls the internal affairs of the Territory; but its acts may be modified or entirely annulled by Congress. The people of a Territory have no voice in National affairs, but they elect a delegate to Congress, who may debate but not vote.

Porto Rico. — The government of Porto Rico is different at some points from that of the other organized Territories. The upper house of its legislature is the Executive Council and consists of the administrative officers of the Territory (secretary, treasurer, auditor, commissioner of the interior, attorney-general, and commissioner of education) and five other persons appointed by the President. Five of the eleven members of this Council must be natives of Porto Rico. The House

of Delegates has thirty-five members, elected triennially by the voters. There is elected by the people a "resident commissioner" to the United States, who, unlike the delegates from other Territories, has no seat in Congress, but rather has official relations with the President.

The Territory of Hawaii. — Hawaii was annexed to the United States in 1898, and its government was established by Congress in 1900. The administrative officers in this Territory are appointed by the governor, instead of by the President. Voters in Hawaii must be able to read and write either the English or Hawaiian language.

Unorganized Territories. — Alaska and Indian Territory are called unorganized territories. The former has a governor, an attorney-general, and a surveyor-general, together with a judiciary consisting of three judges. There is no legislature; Congress enacted, in 1900, a complete civil code for Alaska.

Indian Territory was for many years divided into sections containing the governments of the "five civilized tribes." Each had an organized government, republican in form, under a written constitution. The legislatures, courts, and civil processes resembled very closely those of the State governments. These tribal governments have been superseded by National authority. A complete change is being brought about in the matter of landholding. Under the Indian governments the lands were owned in common, and none but Indians could reside there; but white people came into the Territory and obtained leases and claims to land, until at the present time more than three-fourths of the 400,000 inhabitants are whites. Under a law of 1893, the Dawes Commission has been at work upon a plan for allotting the land of the Territory to the Indians.[1] When this has been done, the land will be owned "in severalty," as in other parts of the country.

Our Government in the Philippine Islands. — The Philippines constitute the largest part of "our insular possessions," and are not classed as Territories. The word "colonies" better expresses their relations to the United States. They are completely subject to the control of Congress. During the war with Spain and after it, until the 57th Congress passed the Philippine Civil Government Law in 1902, these islands were under the military government of the United States. The President, as the head of our military system, had supreme authority over these

[1] Of the 70,000 Indians but 12,000 or 15,000 are "full bloods." About 15,000 negroes, who were formerly slaves, will also receive shares of the land.

possessions; and he exercised his powers through the Philippine Commission, a body of five men, of which Governor Taft was president. This commission was given authority to establish civil government in the pacified regions of the islands.

In accordance with this policy, the government in the cities and in the less disturbed portions of the islands was in reality civil government, in which the people had some share, many months before Congress assumed responsibility by the passage of the Civil Government Law, in July, 1902. This law provides for the continuance of the Philippine Commission and the later establishment of a legislative body which is to consist of two houses. The upper branch of this Assembly will consist of members appointed by the United States government; the members of the lower house will be elected by voters who have a certain amount of property and can speak English or Spanish. This Assembly will not be established, however, until two years after a census, which this law provides for, has been taken. The upper house of this future Philippine legislature will have greater powers than the lower branch; and, of course, all acts of the assembly will be subject to veto by the American government.

Besides numerous other small islands the United States possesses Tutuila in the Samoan group, Guam, and Wake Island. These are governed directly by the naval authorities of the government.

Political Relations with Cuba. — Cuba was under the control of our military authority between the time when our troops occupied the island, during the Spanish-American War, and the announcement of its independence in May, 1902. Although Cuba is now an independent republic, it is considered as a "protectorate" of the United States, and is subject to the influence of this Nation in its dealings with other nations.

The Admission of Territories to Statehood. — We have so far considered the Territories as in a condition of greater or less dependence upon the National government. It has always been the policy of the United States to consider statehood as the ultimate destiny of its Territories.[1] That the power to admit States into the Union belongs exclu-

[1] Now that we have possessions containing peoples of other races, the question arises, shall Porto Rico, Hawaii, and the Philippines ultimately become States?

sively to Congress is evident from the language of the Constitution.

Article IV, Section 3, Clause 1. *New States may be admitted by the Congress into this Union; but no new State shall be formed or erected within the jurisdiction of any other State; nor any State be formed by the junction of two or more States or parts of States, without the consent of the legislatures of the States concerned as well as of the Congress.*

Territories first apply for admission to the Union, and then either of two processes may follow: (1) Congress passes an enabling act authorizing the Territory to frame a constitution, which is submitted to Congress for approval. (2) Frequently, the Territory frames its constitution without waiting for the enabling act; with this in its hand the Territory then applies to Congress for admission. In either case, before giving its approval to the admission of a State, Congress must see that the constitution submitted contains nothing that is inconsistent with a republican form of government.

Our Public Land Policy. — In the Territories which lay between the Alleghany Mountains and the Mississippi River, and in all the acquisitions that have since been made, the unoccupied[1] lands became the property of the United States. So the National government became the possessor of many millions of acres of land, and it still holds immense tracts in the Western States and in its dis-

[1] Exceptions to this statement must be made to cover certain lands reserved by some of the original States that ceded their claims to the United States; as, for instance, the Western Reserve in Ohio retained by Connecticut, and other lands in the same State retained by Virginia.

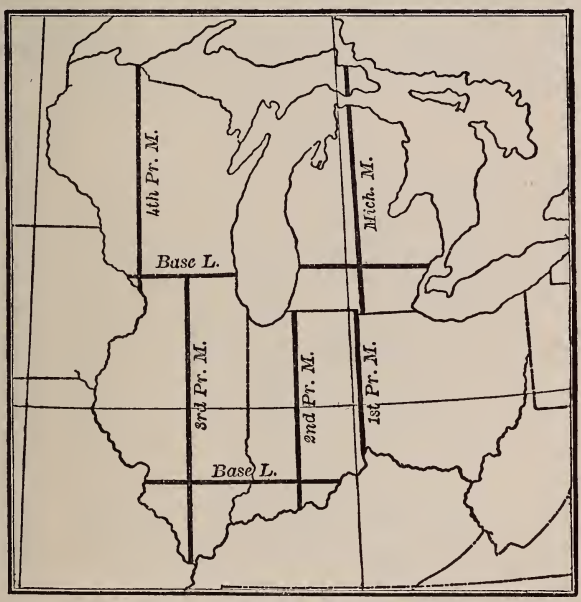
tant possessions. Upon the admission of a Territory as a State, the ownership of its public lands does not pass to the new State, but remains with the National government. The latter has followed a most liberal policy in dealing with its lands. (1) It has granted great amounts to the States. The school lands (see p. 240) which are the basis of the common school funds in the Western States were acquired in this way. (2) Many thousands of square miles have been granted to railroad companies as aid in the construction of their lines. These lands are still being purchased at low rates by settlers in the West. (3) Under various laws, settlers acquire farms from the government almost free of cost.[1] (4) Millions of acres are still held by the government, subject to sale at low prices.

At present the larger part of the public lands of the United States are arid; that is, they cannot be cultivated without irrigation. By a law of 1902, the proceeds received from the sale of public lands in certain Western States and Territories will be expended by the National government in the construction of irrigation works. This law is destined to have a great influence upon the future of our Western States.

The National System of Survey. — In the thirteen original States there was no uniform system of land survey, but each tract of land was surveyed as necessity required, generally after settlement had been made upon it. The tracts were of very irregular shapes. The boundary lines, usually starting from some natural object, were measured

[1] See the provisions of the homestead law, "Government in State and Nation," p. 333.

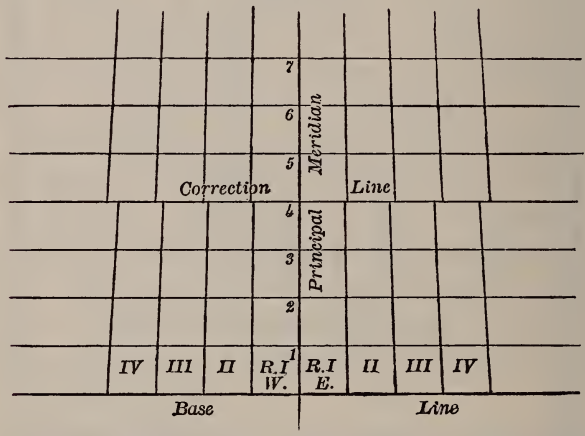
by rods or chains, running in certain directions as ascertained by the use of the compass. This method of survey is still in use in the Eastern States. According to a law of 1785, a uniform system of "rectangular survey" was applied to all lands belonging to the United States. This survey has preceded settlers, and has to some extent influenced the method of settlement and the nature of local



government throughout the West. The lands surveyed have been divided into townships six miles square. For the boundaries of townships the law requires the use of north-and-south and east-and-west lines. To secure starting points from which to run these lines, it was necessary to designate certain meridians as Principal Meridians and certain parallels as Base Lines.

Method of Land Description. — The map indicates the location of Principal Meridians and Base Lines in the States north of the Ohio River. Starting, then, from any Principal Meridian, the tier of townships directly east is called Range I; the other ranges are numbered east and west of that meridian. Counting also from the Base Line, the townships are numbered 1, 2, 3, etc., both north and south. It thus becomes possible to locate precisely any particular township by a simple description: *e.g.*, township 5 north, Range VIII east of the first Principal Meridian.

FIGURE 1.



The convergence of meridians causes the townships to become less than six miles from east to west as the survey proceeds northward from any Base Line. This necessitates the running of standard parallel lines, or correction lines, at frequent intervals, to be used as new Base Lines (Figure 1).

To still further facilitate the sale and description of lands, the law provides for exact methods of subdividing

the township into sections, one mile square, numbered as in Figure 2.

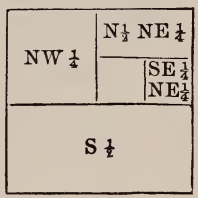
Each section is subdivided into rectangular tracts known as halves, quarters, half-quarters, and quarter-quarters. The designations of these divisions are by abbreviations and fractions. (See Figure 3.) The number of acres in each tract is easily computed.

The rectangular system of survey has been a great aid in the subdivision and location of farm lands; it greatly

FIGURE 2. — SIX MILES SQUARE.

6	5	4	3	2	1
7	8	9	10	11	12
18	17	16	15	14	13
19	20	21	22	23	24
30	29	28	27	26	25
31	32	33	34	35	36

FIGURE 3. — ONE MILE SQUARE.



reduces the number of boundary disputes, it determines very largely the location of country roads. Moreover, the Congressional township has become, in a great many instances, the area within which the political township or town has been organized. This town, however, need not coincide with the Congressional township; it may be greater or smaller in area.

SUPPLEMENTARY QUESTIONS AND REFERENCES.

1. For the history of land cessions, references are given in Government in State and Nation, p. 334, question 1.
2. The topics treated in this chapter are discussed in Harrison, This Country of Ours, pp. 270–279.
3. Government in the Philippines, Arena, 24: 281–292. An article by Governor Taft on this subject, Outlook, 7: 305–311. The Government of our new possessions, Outlook, 64: 353–356, Rev. of R's, 24: 697–700.
4. The Government of Porto Rico, N. Am. Rev. 174: 159–174; Rev. of R's 21: 517–519.
5. The Government of Indian Territory, Forum, 28: 737–740; 34: 466–480; Rev. of R's, 23: 451–458. Garland, The Red Men's Present Needs, N. Am. Rev., 174: 479–488.
6. Irrigation in the West, Forum, 32: 573–581; 33: 366–371; N. Am. Rev., 174: 245–258; Outlook, 70: 907–910; R. of R's, 25: 75–80; 401–402.

CHAPTER XVIII.

AMENDMENTS TO THE CONSTITUTION.

Methods of amending the Constitution. — We have already considered the effect of amendments on some of the original clauses.[1] It now remains to consider, briefly, the methods of amending the Constitution and a few other provisions found in the amendments. Article V provides for amendments as follows: —

The Congress, whenever two-thirds of both houses shall deem it necessary, shall propose amendments to this Constitution, or, on the application of the legislatures of two-thirds of the several States, shall call a convention for proposing amendments, which, in either case, shall be valid to all intents and purposes, as part of this Constitution, when ratified by the legislatures of three-fourths of the several States, or by conventions in three-fourths thereof, as the one or the other mode of ratification may be proposed by the Congress; provided that no amendment which may be made prior to the year one thousand eight hundred and eight shall in any manner affect the first and fourth clauses in the ninth section of the first article; and that no State, without its consent, shall be deprived of its equal suffrage in the Senate.

Thus, amendments may be proposed in either of two

[1] For Amendment XI, see pp. 159–160; for Amendment XII, see p. 120.

ways: by a vote of two-thirds of both houses of Congress; or by a National convention called by Congress for that purpose on the application of two-thirds of the State Legislatures. The convention method has never been used in proposing amendments to this Constitution.

Amendments may also be ratified in two ways: by the Legislatures in three-fourths of the several States; or by conventions in three-fourths thereof. Congress has always selected the first of these methods.

Amending the Constitution Difficult. — That it is difficult to amend the Constitution may be seen when we consider that some two thousand amendments have been proposed in an official way. During a single session of the 57th Congress, fifty amendments, on twenty different phases of government, were proposed in one or other of the houses of Congress.

Amendment XIII. — The purpose of the first ten amendments have already been noted, on p. 114.

The XIIIth, XIVth, and XVth amendments were the results of negro slavery. The Emancipation Proclamation granted freedom to all of the slaves in the States then in rebellion. There were some States, however, as Kentucky, Tennessee, and Missouri, where slavery might still exist legally. In order to be rid of this institution altogether, Congress proposed the XIIIth Amendment to the Constitution, which is as follows: —

Neither slavery nor involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction.

Congress shall have power to enforce this article by appropriate legislation.

It was declared a part of the Constitution, December 18, 1865.

Amendment XIV. — This amendment was proposed by Congress, June 16, 1866, as a part of the general plan for reconstruction. The Southern States were not to be regarded as a part of the Union until they should ratify it. The entire amendment, given in Appendix A, should be read. Sections 1 and 2, however, contain the most important provisions. Section 1 has already been partially discussed on p. 98, under the question, "Who are citizens?" Section 2 has also been considered on p. 53, in connection with the apportionment of representatives.

Congress has at different times removed the disabilities from certain of the classes mentioned in Section 3. Finally, an act of June 6, 1898, removed the last disability imposed by this section.

Amendment XV. — In order to secure full political rights for the negroes, the XVth Amendment was passed, as indicated on p. 51.

The right of citizens of the United States to vote shall not be denied or abridged by the United States, or by any State, on account of race, color, or previous condition of servitude.

The Congress shall have power to enforce this article by appropriate legislation.

SUPPLEMENTARY QUESTIONS AND REFERENCES.

1. What facts can be given showing the difficulty of amending the Articles of Confederation? Fiske, Critical Period, 218–220.
2. Is it now considered difficult to amend the Constitution? Bryce, American Commonwealth, I, 359–362 (368–371).
3. What were the conditions under which the Emancipation Proclamation was issued? Wilson, Division and Reunion, 226–228.
4. Was the adoption of the XVth Amendment a wise policy?

CHAPTER XIX.

THE GOVERNMENTS OF THE WORLD.

Kinds of Governments. — It is customary to classify the governments of the world under two heads : (1) Republics, (2) Monarchies. The real nature of our Republic may be made more apparent by a comparison of our system with that of other republics, and with the governments of certain great monarchies.

Our Federal Republic. — It has been emphasized in the course of our study that the States are vital parts in the political system which we call the Republic of the United States. The States are not mere administrative divisions of the Nation; they do not stand in the same relation to the National Government that counties bear to the State. They do not derive their powers from the National Government; nor, on the other hand, does the latter derive its powers from the States. The source of power for both is the same — "the people themselves, as an organized body politic." The United States is, then, a *Federal Republic.* It is essential to understand that, in the division of powers between States and Nation, the latter is sovereign over the matters that are placed within its jurisdiction ; but it is a feature of our system no less essential (though less clearly understood by the people) that the States are as completely sovereign over matters that lie within their control.

France a Centralized Republic. — In France we find an entirely different type of republic — not federal, but centralized. France is divided into eighty-six departments, which correspond in some respects to our States. But in their relation to the central government the difference is very striking; for the departments are merely administrative divisions of the central government. They have no original and no sovereign powers of government. The chief authority in each department is a prefect, who is appointed by the Ministry of France (the central executive body) and is responsible to it. There is a legislative body in each department, called the general council, but the powers of this body are very much restricted.

The national government of France exercises legislative authority upon many subjects in the departments, and it administers the laws directly. Consequently, the people's powers of local self-government are very much less extensive than those enjoyed by the people in the United States. There result in France much greater uniformity of legislation and more effective administration; while in many parts of the United States local self-government results in corrupt laws and wasteful administration. But we believe that the people will become educated in the use of political power if the responsibility for its use rests upon them, rather than upon some central authority.

The Swiss Republic. — An example of a federal republic is the government of Switzerland. Here the cantons correspond to our States, and each canton has control over its own local affairs, without interference from the federal government. The chief features of the French

and the Swiss governments are indicated in the accompanying outline:[1] —

UNITED STATES	SWITZERLAND	FRANCE
Congress	*Federal Assembly*	*The Chambers*
Senate	*State Council*	*Senate*
Two members from each State	Two members from each canton	300 members elected by an electoral college in each department
Six years		
House of Representatives	*National Council*	*Chamber of Deputies*
386 members elected by people	147 members elected by people	584 deputies elected by people
Two years	Three years	Four years
President	*President*	*President*
Elected by electors, *i.e.* by the people of the States	Elected by Federal Assembly	Elected by National Assembly; *i.e.* Senate and Chamber of Deputies in joint session
Four years	One year	Seven years
Cabinet	*Federal Council*	*Ministry*
Nine members appointed by President and Senate	Seven members elected by Federal Assembly	Twelve members appointed by President

Constitutional Monarchies. — The monarchies of Europe are classified as (1) constitutional and (2) absolute, Russia and Turkey being the only ones of the latter class. In constitutional monarchies the ruler holds his position by heredity, but there exists also a constitution, which defines

[1] Among the South American republics, Brazil, Mexico, and Argentine Republic are federal in nature, like the United States and Switzerland.

the distribution of powers among the branches that compose the government and fixes the limits of authority vested in each. The British constitution is partly written, as found in the great historical documents of English history, such as Magna Charta (1215), the Petition of Right (1628), and the Bill of Rights (1689)[1]; and partly unwritten, consisting of precedents and customs which are recognized as authoritative. The constitutions of the other monarchies of Europe were made during the nineteenth century, and consequently they are younger than that of the United States.

In all the constitutional monarchies we find legislative bodies similar to our Congress. In every case the lower house is elected by the voters;[2] in England, the Austrian Empire, Italy, and Spain, a number of the members of the upper house hold their position by hereditary right. In respect to legislation, therefore, the constitutional monarchies are all more or less republican in principle; that is, they all recognize the supreme authority of the people acting through their representatives.

The Cabinet System of Government. — In the relations existing between their legislative and executive departments, the European governments differ considerably from that of the United States. In our government we find, theoretically at least, that these departments are separated; in the European governments there is a close interdependence of the legislative and executive branches, through some form of "cabinet responsibility." This "cabinet system" of government is found in the republics as well as

[1] Compare the "Bill of Rights" in our Constitution; see pp. 256–257.

[2] Property qualifications for suffrage are common in European countries.

in the constitutional monarchies of Europe, and in the self-governing British possessions, such as Canada and the Australian colonies.[1] The difference between the Congressional and the cabinet systems is greater in appearance than in reality; for in the United States the President and his Cabinet exert considerable influence upon legislation.

ENGLAND	GERMANY
Monarch — hereditary in the line fixed by Parliament	Emperor — hereditary King of Prussia
Cabinet Nineteen members [2] chosen by the Prime Minister	*Ministry* Eight ministers, Chancellor at the head, appointed by the Emperor
Parliament Limit of term, seven years	*Parliament* Term, five years
House of Lords 586 members, holding seats (1) by heredity, (2) by appointment by Crown, (3) by election [3]	*Bundesrath or General Council* 58 members appointed by the German States
House of Commons 670 members elected by the people of England, Scotland, and Ireland	*Reichstag or Diet of the Realm* 397 members elected by the people

[1] This system finds its best illustration in the English government, of which a brief description will be found in "Government in State and Nation," pp. 178–179. For references, see questions 12, 15, and 16, p. 181.

[2] The number of members in the Ministries of England and Germany varies.

[3] Irish peers are elected for life, and Scottish peers are elected for the duration of a Parliament.

The Government of Russia. — "The government of Russia is an absolute hereditary monarchy. The whole legislative, executive, and judicial power is united in the Czar, whose will alone is law. There are, however, certain rules of government which the sovereigns of the present reigning house have acknowledged as binding."[1] There are four great councils which assist the emperor in the government of Russia. The country is divided into administrative districts, which are presided over by representatives of the Emperor and have supreme civil and military authority. The people of Russia, have, however, some measure of local self-government. This is seen in the communes, where the people (*i.e.*, the householders) hold general meetings for the purpose of discussing local affairs and electing officers.

The Form and the Spirit of Government. — The study of other governments and the comparison of them with our own will teach us that the virtue of a government resides, not in its framework, but in its spirit. A government may be monarchical in form and republican in its practical workings. In England and in others of the European monarchies, the will of the people is the law of the land. On the other hand, a government may be republican in form, and very unrepublican in its methods of operation. There are cities and States in our country where one man, the political boss, or a group of men, the political machine, dictates the course of legislation and controls the administration of the law. Here we find, in reality, not republican governments, but despotisms or oligarchies.

[1] "Statesman's Year Book," 1902, p. 976.

The final test of a government is found in the responsiveness of the governing authorities to the will of the majority of the people. Wherever republican institutions are found, whether in republics or in monarchies, the people may rule if they will. Monarchical and aristocratic institutions do not in our time stand long in opposition to a determined public opinion; and, on the other hand, a framework of republican institutions will not insure the execution of the popular will. This can only be secured where high-minded citizens are vigilant in the performance of their political duties.

SUPPLEMENTARY QUESTIONS AND REFERENCES.

1. The relations of nations are governed by the rules of international law, Government in State and Nation, 352–354.
2. What progress has been made in the direction of settling disputes between nations by arbitration instead of by war? Government in State and Nation, 354–357. Forum, 31: 197–208; Rev. of R's, 21: 51–55.

PART III.

STATE GOVERNMENTS.

CHAPTER XX.

THE ORIGIN OF STATE GOVERNMENTS.

The First States. — In the study of United States history, we learn how the thirteen English colonies were planted, and how they became populous and finally threw off the authority of the mother-country. The period of the Revolution, when independence was secured, is also the period when the colonies transformed themselves into States. This change was not a radical one, for each State government was modeled closely upon the colonial government that was superseded. We must study the colonial governments, then, to find the origin of the systems established in the thirteen original States. These States in turn influenced the forms of government adopted by the new States as they were admitted into the Union.

The New States of the West. — As in local, so in State government, the settlers of the West carried with them the ideas to which they had been accustomed in the sections from which they migrated. Doubtless, too, the people of the West have been much influenced in the formation

of their governments by the example of neighboring communities and by the model set for them by the United States government.

The colonial governments had many features in common; for they embodied the political traditions of the mother-country. There were in each colony legislative, executive, and judicial departments.

Colonial Assemblies. — The most noticeable feature of these governments is the assembly which existed in every colony and was in every case elected by the people. Here we find the principle of representative government, which had been recognized in England as essential to political liberty, cherished and maintained by Englishmen in America. The colonial assemblies had various names. In Virginia the members of the House of Burgesses were elected from the counties; in Massachusetts deputies were elected to the General Court from the towns.

Governors of the Colonies. — There was less uniformity in the executive departments of the colonies, for, although each had a governor, these officers obtained their positions in three different ways. At the time of the Revolution, the governors of eight colonies were appointed by the King of England; the governors of Pennsylvania, Maryland, and Delaware were appointed by the proprietors of those colonies; and the governors of the two remaining colonies — Rhode Island and Connecticut — were elected by the voters in accordance with the provisions of their charters. Because of these differences, we classify colonial governments as (1) Royal, (2) Proprietary, and (3) Charter. In several colonies the governor was assisted

by a council, and this body was sometimes the upper house of the colonial legislature.

In these colonial institutions, then, we find the model for our present State governments, with their governors, legislatures, and judicial officers. Since the governors in most colonies represented the authority of the Crown, while the assemblies represented the people, disputes as to the authority of each were common. On the whole, the assemblies succeeded very well in maintaining their right to control the most important colonial affairs, including the raising of taxes. We find in these contests between royal governors and popular assemblies that spirit of free government which finally inspired the revolt against the mother-country.

Colonial Charters. — In our early history we learn that many of the colonies were founded on the basis of charters, granted by royal authority. A charter contained a grant of land to an individual or to a company, and also a plan for the government of the colony. It was regarded as a sort of fundamental law to which the laws of the assembly and the orders of the governor must conform. If any of these laws or orders was considered to be in violation of the charter, the case was appealed to the colonial courts, or to the English government, and as a result, the act might be set aside by these authorities. Some colonies, Virginia, for example, lost their charters; but even then, the fundamental ideas of their colonial governments, derived chiefly from these charters, were regarded as established, and not subject to change. So in every colony there grew up the idea of a government based on fixed principles, em-

bodied in charters, in written orders, or in well-established customs.

Origin of State Constitutions. — In these facts we find the explanation of the State constitutions that were adopted during the period of the Revolution. When, by the advice of the Continental Congress, the authority of the English government was thrown off, it seemed necessary for each colony to make a re-statement of its plan of government, of the authority vested in each department, and of the fundamental principles that were to be the guide of all political action in the new States. Connecticut and Rhode Island preserved their charters as constitutions; the former until 1818, and the latter until 1842; in each of the other States a constitution was adopted between the years 1776 and 1784.

How Constitutions are Formed. — Since our present National government went into operation (1789) thirty-two new States have been added to the original thirteen, and each has adopted a constitution as the basis of government. A State constitution is framed by a convention which is elected by the voters for that purpose. In most cases, after the completion of its work the convention submits the document to the voters for acceptance or rejection.

The Contents of a State Constitution. — The constitution contains (1) a Bill of Rights stating the most important principles that should be recognized by any free government; (2) an outline of the frame of government with its three departments; and (3) miscellaneous provisions, often very numerous, stating those features of the State govern-

ment which are regarded as of so much importance that they should not be changed by the ordinary process of enacting a law. The changing of a constitutional provision by amendment must include not only its approval by the legislature (sometimes two legislatures in succession must approve it), but also its ratification by vote of the people.

SUPPLEMENTARY QUESTIONS AND REFERENCES

1. Is your State one of the original thirteen States? If so, how has its government been changed since the adoption of the first constitution?
2. If yours is one of the Western States, how has the organization of its government been influenced?
3. How may your constitution be amended?
4. On the origin of State governments, see Thwaites, The Colonies, 58–63, 192–193, 271–277; Fisher, The Colonial Era, 208–211; Hart, Formation of the Union, 5–10, 13–17, 80–81; Channing, The United States of America, 26–36, 84–85; Sloane, French War and Revolution, 10–12.
5. How are State constitutions amended? Bryce, Vol. I, 419–420 (433–435); Ashley, The American Federal State, 566–571.
6. Are State constitutions changed frequently? Bryce, Vol. I, 440–442 (456–458).
7. Why are so many miscellaneous provisions included in Bills of Rights? Bryce, Vol. I, 426–428 (442–444).

CHAPTER XXI.

STATE LEGISLATURES.

The State Capital. — The capital city of a State is usually the center of its political life. This is especially true when the capital is also the metropolis, as in the case of Boston, or Indianapolis. In most cases, however, the seat of government is located in a smaller city. Here is the capitol building, where the legislature meets in its regular sessions to enact laws for the State.

Legislatures are Representative Bodies. — A legislature is a most interesting body. In it sit the men whom the voters have selected to act for them in the important business of law-making. The legislators should therefore represent accurately the general opinion of the majority in the different sections of the State. Very often this theory is not realized in practice; for there are obstacles as we shall see, that stand in the way of exact representation.

Legislatures[1] vary greatly in size, the numbers ranging from fifty in Oregon to four hundred in New Hampshire. There are always two houses, one called the senate, and the other the house of representatives, or assembly. The latter contains the larger number of members. In some

[1] In many States the term "General Assembly" is used.

cases the terms of members of the two houses are the same, but more frequently the senators have longer terms than the representatives or assemblymen. Each house has a presiding officer. In the lower house a speaker is elected, while the lieutenant-governor is president of the senate in most States. There are, besides, clerks, the sergeant-at-arms, door-keepers, and other officers.

Salaries and Sessions. — Members of legislatures are paid regular salaries; sometimes they receive a regular amount per day, or it may be a certain amount for each session or per year. In nearly every State sessions of the legislature occur biennially, only six States [1] having annual sessions.

Legislative Districts. — Members of legislatures are elected from districts into which the State is divided. There are generally two sets of districts for the members of the two houses, respectively. In the formation of the districts, which is the work of the legislature, certain rules must be followed. These rules concerning apportionment may be prescribed in the State constitution. One such rule requires that the districts shall be as nearly uniform in population as practicable. The shifting of population in the course of years destroys the equality of districts in this respect, and so States are re-apportioned periodically; that is, new districts are made after a census has been taken. Districts are also supposed to be compact and convenient in shape. Sometimes the district lines are purposely arranged so that one political party will have the

[1] These are Massachusetts, Rhode Island, New York, New Jersey, South Carolina, and Georgia.

greatest number of votes in a majority of the districts. When this is done in violation of the rules governing apportionments, we have a "gerrymander." This is one way in which unfair representation of the people in the legislature may come about.

The Introduction of Bills. — All meetings organized for the transaction of business are governed by certain rules of parliamentary practice. Legislatures adopt such rules, and these contain detailed regulations which must be followed in the enactment of laws. Any person may propose the ideas for a new law, and may put them into the prescribed form of a "bill"; but only a member of the legislature may *introduce* the bill. This is the first step in the process of its passage. The bill is no sooner introduced than it is *referred to a committee*, and this step requires some explanation.

Why Committees are Necessary. — When a legislative body is composed of a large number of members, and when a great amount of business is presented for its consideration, it becomes necessary to divide the work among groups of members, called committees. This is because it is impossible for every member to give time and attention to every item of business. So in the houses of a legislature we have a large number of committees. To each are referred bills on certain subjects. There are committees on the appropriation of money, on taxes, railroads, education, public buildings, and on a great many other subjects. Committees hold sessions which are secret, unless they call in outsiders to give testimony or to make arguments relating to bills that are before them for consideration. After

considering a bill, the committee is supposed to report to the house its judgment in the matter.

The Work of a Committee. — A committee has great power over the bills given into its charge; it may change them or substitute a new bill for any of them. It may fail to take any action whatever upon a certain bill, and so in reality determine that it shall not become a law. The house may, however, order the committee to report the bill. In each case, when it reports a bill, the committee recommends that it should or should not pass. In most cases this recommendation is accepted by the house without question; for there are so many bills that only the most important can receive attention during the course of the session. A few bills, then, are fully debated and attract public notice; the great majority become laws without having received much consideration except such as was given them by the committees.

The Passage of a Bill. — When a bill has passed one house of a legislature, it is sent to the other. Here it goes through the same process as before. It may be amended by this house, then it must be returned to the house where it was introduced and be repassed in its new form before going farther.

Conference Committees. — If the two houses cannot agree upon the details of a bill, a *conference committee* may be appointed, composed of members from both of them. This committee endeavors to arrive at a compromise which will be acceptable to both houses. Generally, the result reached by the conference committee is accepted without further debate, and the bill is then passed.

Methods of Voting. — There are several methods of voting upon the passage of a bill. (1) If a vote is taken "by acclamation," the members answer in unison "aye" or "no." (2) A rising vote may be called for, if the result is

in doubt, and then the members voting on each side must be counted. (3) Upon the passage of important bills, State constitutions provide that the vote shall be by "yeas and nays"; or a request from a certain number of members may cause the vote to be taken in this way. Then each member's name is called, and he responds by giving his vote. This is made a matter of record in the journal of the house, so that the public may know the attitude of every member on the bill. Since the latter generally wish to retain the good opinion of their constituents, the taking of votes by this method may serve as a check upon unwise legislation.

The Governor's Approval or Veto. — Having passed both houses by majority votes, the bill is next sent to the governor for his signature. In all but three States (Ohio, North Carolina, and Rhode Island), if the governor disapproves of the bill, he may *veto* it. In that case he returns it to the house where it originated, with his reasons for refusing his signature. If this house repasses the bill by a two-thirds majority, it is sent to the other house, and if it receives a similar vote here, it becomes a law without the governor's signature.

The Lobby in Legislatures. — This, in general, is the way in which laws are enacted. We must not think that bills have their origin in the common opinion of the entire body of legislators, or even in that of a majority of them. In every case a certain person is interested in putting a bill into form, introducing it, and persuading others to vote for it. Whether a bill receives any attention, therefore,

depends as much upon the activity and skill of its promoters as it does upon the merits of the measure. By far the greater part of the work that is necessary to bring about the enactment of a law must be done outside of the legislative sessions, either in the committee rooms, or in the lobbies of the capitol, or at the hotels and other places where members congregate. It is the personal solicitation for votes that really determines whether a bill shall pass, rather than the public debates. Work of this nature, either for or against a pending bill, is called "lobbying." "The lobby" is composed of persons, not members of the legislature, who use their influence during a session to bring about the passage or the defeat of a bill.

Why Bad Laws are Enacted. — Now, the facts above stated apply to the passage of both good and bad measures. Some of the latter kind become laws because members have been offered inducements to vote for them. These inducements may be in the form of political advantages and influence to be used in favor of these members; or appointments to positions for members or their friends; or money itself may be paid for votes. Because so many corrupt means are employed to obtain votes, the term "lobbyist" has taken on a bad meaning. Laws have been enacted which are intended to check the evils of lobbying; but these are not very efficient. The only safeguard against bad laws will be found in the election to our legislatures of men who cannot be bribed.

Another source of evil legislation is the haste with which laws are sometimes passed. Toward the end of a session, especially, bills are voted upon without adequate

time and attention being devoted to them. As a consequence, bad measures slip through unnoticed.

Again, members of legislatures may be induced to vote for unwise bills merely because they are favored by one political party or the other. When a member "votes with the party" under all circumstances, he surrenders his independence and becomes a part of the "political machine" regardless of the people's interests.

Restrictions upon Legislatures. — Probably the most fruitful source of bad laws is the greed that is displayed by many persons who have political influence. The public treasury is regarded by them as legitimate plunder, and numberless schemes are originated for getting money from it without rendering to the State a fair return. Consequently, constitutions contain restrictions upon the enactment of laws relating to finances. In many other ways State legislatures are restricted in the subjects and the manner of legislation. Evidently this is necessary because the representatives of the people sometimes betray public interests. It is exceedingly desirable, therefore, that citizens should be intelligent in political matters and watchful in guarding their rights. But, we repeat, the surest way to have good laws is to elect good men to our legislatures.

SUPPLEMENTARY QUESTIONS.

For the study of your State legislature: —

1. Learn the number of members in each house; the time of their election; their terms and salaries. What officers has each house?
2. When was the last apportionment made? In what districts do you live? Compare their size and population with other districts.

3. The Blue Book or Legislative Manual gives the list of committees for each house; also the exact procedure in the passage of bills.
4. Is lobbying an evil in your legislature? Can you find instances in which persons lobbied for a good law?
5. How does your constitution restrict the legislature as to (1) the manner of enacting laws; (2) the subjects of legislation? Why is each restriction necessary?

REFERENCES.

1. Interesting facts concerning State legislatures are given in Bryce, I, 466–470 (486–490). Their faults are discussed on pp. 526–531 (550–555).
2. Many important items regarding legislatures in all the States are tabulated in Ashley, The American Federal State, 584–585.
3. What is meant by "proportional representation"? Government in State and Nation, 13–14; and references, 18.
4. Direct legislation (initiative and referendum), Ibid., 14–15, and references, 18.
5. What abuses exist in connection with legislatures? N. Am. Rev., 170: 367–373. What remedies may be suggested? Ibid., 373–383. Who is responsible for corrupt legislation? Outlook, 71: 469–471.

CHAPTER XXII.

STATE EXECUTIVE AND ADMINISTRATIVE DEPARTMENTS.

The Governor: His Salary and Term. — We have noticed in a previous chapter the necessity for having chief executives in towns, villages, and cities. The State, also, has its head executive officer, the governor, who is elected by the people. A lieutenant-governor is elected at the same time with the governor, and he acts in the place of the latter when there is a vacancy. The governor resides at the State capital, and has offices in the capitol building. The State may also provide an "executive mansion," to be used as the governor's residence. The salaries paid to governors vary in different States from $1500 to $10,000 a year. In about one-half of the States the governor's term is two years; in the other half it is four years, except that in Massachusetts and Rhode Island it is one year, and in New Jersey three years.

The Execution of Laws. — As the governor is the chief executive of the State, his most important powers are directed toward the enforcement of the law. Under ordinary circumstances the violation of the laws is checked and punished by officers of the local governments. We have seen that it is the duty of sheriffs and police officers

to execute State laws in their respective localities. The same may be said of other executive and administrative officers in the local divisions. In some cases the neglect of duty by one of these officers may be the cause of his removal by the governor. But under ordinary circumstances the governor has little occasion to interfere with the local administration of the law. In times of public tumult, however, when disorder or rioting prevails in any locality to such an extent that the local officers cannot control it, the governor may take charge of affairs for the purpose of bringing about peace and order. He does this with the help of the State militia, or the National Guard, as this is called.

The State Militia. — Militia companies are organized in almost every State of the Union. Each company is composed of men who are banded together for purposes of military drill; they are furnished with arms and uniforms, and they pledge themselves to respond to a call for service at any time. The governor is the commander of the State militia, and there are officers subordinate to him. Sometimes the militia is called out to assist in the protection of property after some public disaster, such as a flood or a tornado.[1]

Legislative Powers of the Governor. — The governor's powers are not exclusively executive, for he has some powers in connection with legislation. (1) His right to sign and veto bills may be mentioned under this head. (2) Then, too, he sends messages to the legislature recommending measures that he thinks wise. (3) He may call a special session of the legislature to consider any matter that requires immediate attention. Besides these direct legislative functions,

[1] We speak here of the *organized* militia. For another use of the term, see p. 106.

the governor generally exerts great *influence* in connection with the work of the legislature. He is naturally one of the leaders of his party, and his followers look to him for the framing and the carrying out of policies that will increase their party's influence. Sometimes this consideration, rather than the general interests of the people, seems to determine the governor's attitude toward the making and the enforcement of laws.

The Pardoning Power. — The governor has at least one function that would be classed as judicial. He may pardon criminals who have been sentenced to punishment by the courts. This may be done at any time before the expiration of the term of punishment. The friends of the prisoner petition the governor for the pardon, and he reviews the testimony and hears arguments in the case before deciding it. The withholding of the punishment for a time is called a *reprieve;* if the punishment is changed by the governor to one of less severity, it is a *commutation.* In a few States the pardoning power is vested in a board instead of in the governor. This may be because of a desire to relieve the latter from the labor involved in such affairs; or because the pardoning power in the hands of governors has sometimes been abused.

The State Administrative Officers. — The governor is incapable of attending to all the details involved in administering State affairs; so there are many other State officers with whom he shares these duties. Some of these will now be mentioned.

Like the clerk in the local government, the Secretary of State is the keeper of State records. In his office the

laws and other official acts are recorded, and to them the official seal of the State is given. The State Treasurer collects and pays out money. Most states have an officer called auditor or comptroller, who has very important duties in connection with finances. It is his business to examine and approve or disapprove all orders for the payment of money; so that unjust claims may not be paid. The attorney-general of the State is a lawyer who gives legal advice to the governor and administrative officers, and who takes charge of important suits in which the State is a party.

The administrative officers mentioned above are in most instances elected by the people at the same time with the governor and the members of the legislature. Among those that are now to be enumerated, the larger number are appointed by the governor, though in some cases they obtain office by election.

Penal and Charitable Institutions. — A very important part of the work of a State is found in its support of penal and charitable institutions. Under the former fall the prisons and reformatories. Of the charitable institutions, there are asylums for the insane, schools for the deaf and blind, and homes for dependent children. The management of these institutions is carried on in several different ways. (1) There may be a separate board of trustees for each institution. In most cases each board exercises its powers independently of the others. (2) Since uniformity of management seems desirable, to some extent, many States have central boards which have power to inspect these institutions and more or less power to supervise their

management. (3) In a few States the process of centralization has gone a step farther: the separate boards of trustees have been abolished, and the entire control of all the institutions is given to a single board.

The Department of Education. — The management of our public schools, we shall see in a later chapter, is principally in the hands of local officers — the school boards of towns, villages, and cities. But every State has also a State superintendent or a board of education, who supervise to some extent the administration of State laws by the local boards. Considerable influence may be exerted by the State department of education in the direction of raising the standard of qualifications for teachers and in promoting the progress of education throughout the State. When the State supports a university and normal schools, these have their boards of trustees, or regents.

The State Board of Health. — We have noticed that in educational matters State officers supervise the local administration of laws upon this subject. It is one purpose of this arrangement to secure uniformity; thoroughness of administration is another object sought, for local officers are sometimes lax in the execution of their duties. These observations apply to other subjects than education, and among these is the subject of public health.[1] There are State boards of health that have authority to assist local health officers, or to compel the latter to administer the laws properly.

[1] Some of the purposes of health regulations have been mentioned. See p. 4.

Boards of Examiners. — In many other ways State officers are engaged in protecting the interests of the public. There are often boards of examiners who have authority to grant licenses to persons wishing to practice medicine, dentistry, pharmacy, or law. Only those who possess these licenses, and others who are graduates of professional schools in good standing, may engage in these pursuits; and the boards of examiners must enforce the laws on this subject. By such measures the State protects its citizens against persons who would impose upon them.

The State Supervision of Industries. — Many States have officers or boards who administer the laws relating to banks, railways, and insurance. The powerful corporations engaged in these kinds of business require supervision because the interests of vast numbers of people are affected by their management; also because these corporations, if mismanaged, may work such injury to their patrons that no means can be found for making adequate reparation to those who suffer. Examples of this may be found in railway disasters and in the failures of banks and insurance companies.

It is becoming quite common for States to undertake, through special officers, the inspection of factories, mines, and workshops. The State inspectors enforce numerous laws, some of which regulate the employment of women and children; others require that factories and shops shall have a proper amount of light and ventilation, that fire-escapes shall be provided, and that dangerous machinery shall be surrounded by guard rails.

Game Laws. — Finally, besides guarding the health, financial interests, and safety of its citizens, the State gov-

ernment undertakes to supervise their sports by means of game laws. These laws aim to protect wild animals against wholesale or wanton destruction, by prohibiting hunting except during certain seasons. Similar laws are enacted for the preservation, and sometimes for the propagation, of fish.

The State Government and the People. — All of the various activities of the State serve to remind us that the real source of government is in the people. These laws are made by their representatives, not by some external authority; the people take these ways of protecting themselves against certain evils and inconveniences. The State officers are not rulers set over the people to enforce their own wills, but they are the people's servants attending to public interests which the citizens could not manage for themselves.

Whether the activities of the State government should penetrate still farther into the affairs that are now managed by local governments, and whether its control should be extended into new fields and over other enterprises, are questions very difficult to answer. Such tendencies are *centralizing* in nature, and their wisdom is debatable.

SUPPLEMENTARY QUESTIONS.

For the study of your State government: —

1. **Learn what you can of the capitol building and the executive mansion.**
2. **What is the governor's salary? Is there a "contingent fund" besides?**
3. **How many militia companies are organized in the State? The State laws tell the number of men and officers composing each**

company, battalion, and regiment. Do you know an instance when the militia was called into service?

4. Make a complete list of the administrative officers and boards. Which are elected, and which appointed? Schools may obtain the reports of State officers, showing the workings of the various departments.
5. What penal and charitable institutions are there? How are they managed?
6. What are the State educational institutions? Under whose control is each?
7. What are some of the laws relating to factories, and to the employment of women and children?
8. What are some of the game laws? Do you think them wise?
9. Have you noticed any tendency toward the further extension of the State government into local affairs?

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1. The extension of State authority with regard to the management of roads, Forum, 26: 668–672. Highway Construction in Massachusetts, Pop. Sci. Mo., 51: 73–82.
2. General facts concerning State executive and administrative officers are given in Bryce, Vol. I, Chapter 41.

CHAPTER XXIII.

POLITICAL PARTIES AND ELECTIONS.

The Political Campaign. — One of the most interesting features of our government is the political campaign that precedes an election. Not the voters alone, but all the people, both young and old, discuss the issues, and the merits of the various candidates. Mass meetings, speeches, and torchlight processions add to the interest of this time. Party spirit runs high; but the good nature and quiet that follow all this display of partisan feeling, when the result of the election is finally known, teach an impressive lesson. For here we see the proof that the American people believe thoroughly in government by the majority. No true citizen wishes to see his party triumph in any other than a lawful way, and he believes that order and security are of greater importance than the temporary success of any candidate or political party.

In an election, the voters choose the officers who are to carry on their government. In their work of making and executing laws, the officers are the people's representatives. Hence we see the importance of elections; for the character of the government depends in no small degree upon the character of the men who are to conduct it.

Qualifications for Suffrage. — No less important is the question, "Who shall have the right to vote for officers?"

In general, we may say that this country has universal, or manhood, suffrage. This means that all men who are twenty-one years of age, or older, may vote; though there are many exceptions to this rule. In most States of the Union a voter (or elector) must be a citizen of the United States; but in others, a foreigner, who has declared his intention to become a citizen, has the right to vote. Then, too, it is usual to require that the voter shall live in his State for a prescribed time, before he is given the right of suffrage.[1] Another requirement is, that he shall have resided in the town, village, or ward where he wishes to vote, for a certain number of days preceding the election. The common qualifications for voters, then, relate to age, sex, citizenship, and residence. There are also certain classes of persons who are evidently unfitted to exercise the right of suffrage; these are the insane, and convicts who have not been pardoned. Paupers, also, are sometimes denied the right to vote.

Educational Tests for Voters. — Let us now consider some of the peculiar suffrage requirements fixed by the laws of different states.[2] A number of States of the Union have established some kind of educational test for the voter; for instance, he may be required to read the Constitution, or to write his name. In several of the Southern

[1] Generally, this time is one year; though in many States, as in Michigan and Minnesota, it is six months, and in some, as in Mississippi and Louisiana, two years.

[2] It will be noticed that suffrage qualifications are the subject of State, not of National, law. Exceptions to this general statement are noted in "Government in State and Nation," p. 48.

States this requirement results in the exclusion of large numbers of negroes from voting.[1]

Woman Suffrage. — The privilege of voting in school elections has been extended in most of the States of the Union to women who have the general qualifications for voters that were enumerated in the preceding paragraph. In four States, Wyoming, Idaho, Colorado, and Utah, women have been made electors on the same footing as men.

Nominations. — The first step in the process of electing officers is their *nomination.* This process is under the control of political parties; so in order to understand it we must discuss quite fully the workings of our great party organizations.

Political Parties. — A political party is composed of voters who have, in general, common beliefs, and who unite to secure the election of certain men to office. Now, the voters cannot accomplish this result unless they are organized. In a large factory or in an army, there must be leaders and subordinate officers who direct the movements of the men under their authority; so in a political party the voters must be guided by leaders. These leaders take charge of party business and work for party victory. They are generally the members of the party *committees* that each party has in every State and in all the local divisions.

[1] The States having educational qualifications at present are Delaware, Virginia, North Carolina, South Carolina, Alabama, Louisiana, Maine, Massachusetts, Connecticut, Mississippi, Wyoming, and California. In some of these States persons who own a certain amount of property and those whose ancestors voted before 1867 are exempt from the educational test.

As the first step in the process of nomination, the committee of the town, village, or ward calls a meeting of the voters who belong to their party; this meeting is called the *caucus*, or *primary*. The conduct of the caucus is in the hands of the committee, and in some localities they determine who may attend and take part.

Why Conventions are Necessary. — In most States the local elections occur in the spring, and the "general election," when county and State officers are chosen, occurs in November. Now, a caucus may do one or both of two things. If town, village, or ward officers are to be elected, it may (1) nominate candidates directly. But if city officers are to be elected, or if the caucus precedes the general election, then it must (2) choose delegates to go to conventions where candidates are nominated. In a large city, for instance, the voters of a party do not assemble in one meeting; but the delegates chosen in the ward primaries meet in a convention and nominate candidates for the positions of mayor and other city officers. So, too, in the making of nominations for general elections, there are county conventions and conventions in the legislative districts, where candidates who run for county offices and for seats in the State legislature are placed in nomination. These conventions, like the caucuses, are managed by party committees. The nomination of State officers requires an additional step to complete the process. There are first caucuses, where delegates are elected to attend conventions in all the counties of the State.[1] At these

[1] The exact process varies in different places; the conventions may be held in legislative districts.

conventions, still other delegates are elected to attend the State convention, which nominates candidates for State officers. A double convention process may also be required for the nomination of candidates for Representatives in Congress; while in the case of a Presidential election, three sets of conventions may be necessary before the candidates are finally nominated.[1]

Party Platforms. — It is evident that our methods of placing candidates in nomination are quite complicated. This fact increases the necessity for party organization; there must be party leaders to manage every step that is taken. These party leaders are also very influential in securing the adoption of *platforms* by the conventions mentioned above. The platform is a statement of the policies for which a party stands. Platforms contain "planks" expressing views upon such subjects as the tariff, colonial expansion, and trusts. The party pledges itself in the platform to carry out certain policies if its candidates are elected.

The Conduct of a Campaign. — Another function of party managers and committees is the conducting of the campaign. This involves a great amount of labor and the expenditure of considerable sums of money. Speakers must be secured, halls rented, and brass bands hired. The printing and distribution of bills, pictures, and pamphlets is managed upon a large scale. In the local divisions the party workers must keep lists of voters and solicit some of them personally in order to secure their votes.

[1] See p. 118.

The money used for all these purposes amounts to very large sums. It is collected (1) from candidates, each of whom is expected to make a contribution in proportion to the importance of the office which he seeks; (2) from those persons who expect appointments to office if their party is victorious; (3) sometimes others, not candidates, who are interested in the triumph of their party's policies give money for campaign purposes; (4) persons and corporations whose business will be helped by the victory of one side over the other frequently make liberal contributions to campaign funds.

The Boss, the Ring, and the Machine. — It is evident that the principal functions of political parties, *i.e.*, the nomination of candidates and the management of campaigns, are in the hands of (1) party committeemen, and (2) delegates at conventions. These are the party leaders, and they are, or should be, also the representatives of the voters. The leaders and managers are, in many cases, completely organized. That is, the local party workers recognize one of their number as a sort of captain or *boss*. He in turn may be one of the subordinate officers in the party organization of the city or the state. This may have at its head a group of politicians, called a *ring*, or it may be under the control of a single man, whose influence is recognized in a city or throughout an entire State. He would then be called a *boss*. To the entire organization of superior and inferior politicians the name *machine* has been given. Each adherent of the machine works for party success; he helps those who are above him in authority, because he hopes to gain recognition and reward for his work. On the other

hand, he secures the allegiance of his followers, whether they be the subordinate party leaders or the voters, by arousing their enthusiasm for the party, and by promising success at the election if he is supported. When a thoroughly organized machine is in control of a party, its chances for victory are largely increased.

Do Party Machines represent the Voters? — The question arises, Do party machines represent the wishes of the voters accurately? In many cases they do not, for several reasons which we shall now discuss.

(1) It is evident that the wishes of the voters do not have great influence with the political machine when the voters do not attend the caucuses. Ordinarily caucus attendance includes only a small fraction of the total number of voters.

(2) Even when many voters attend a primary, the majority may not nominate the candidates or elect the delegates; for they may not be so well organized as the minority, and in consequence their votes will be distributed among numerous candidates. In such a case the machine will win, because its votes are concentrated upon one candidate or one set of delegates.

(3) When they fear defeat, unscrupulous men in charge of a primary may exclude voters by fraud; sometimes they secure the result they wish by force or intimidation.

(4) In conventions the opportunities for defeating the will of the voters are many. The delegates may or may not be instructed to vote for certain candidates. Many times they violate their instructions, or vote for candidates who are known to be obnoxious to a majority of the party.

These things happen because delegates cannot be held directly responsible for their action in conventions, and because of the temptations to which they are subjected. They are often induced to *trade votes; i.e.*, they vote for a man on the condition that his supporters will vote for some other candidate whom they favor. Again, delegates are persuaded to vote for unworthy candidates by promises of reward in the form of political appointments and other favors. Finally, it is too often true that candidates buy the votes of delegates.

In all of these ways it frequently occurs that bad men are nominated for office against the wishes of the party adherents. Consequently, when this happens in both parties before the same election, the voter goes to the polls having merely a choice between two candidates neither of whom is acceptable to him. It is also true that the wishes of a majority of the voters in a party can be most successfully ignored when the party is controlled by a thoroughly organized machine. Because this has come about most frequently under the leadership of corrupt politicians, the words *machine*, *boss*, and *ring* have taken on a bad meaning; though there is no reason why a political machine may not be organized by good men, and managed solely with a view to representing the will of a majority of the voters.

Election Reform Laws. — Numerous laws have been passed within recent years regulating such party activities as committee organization and caucuses. It is the purpose of these laws to check the evils that have just been discussed. These are known as "primary reform laws" and "corrupt practices acts."

Direct Nomination. — In some States the system of "direct nominations" has been adopted, caucuses and conventions giving place to a "primary election," in which the voter may cast his ballot for such persons as he wishes to see nominated by his party for State as well as for local offices.[1] This system is simpler than the ordinary method, but it has not been tried sufficiently to determine the extent to which it will cure the evils of our nominating system.

The Australian Ballot. — We have now followed the course of the proceedings that are preliminary to the election. This final step is conducted under the Australian ballot system. Its essential features are three in number: (1) registration, (2) the official ticket, and (3) the secret ballot.

1. *Registration.* — Registration laws require that at certain fixed dates previous to the election, the voters shall have their names and residences recorded by election officials. Registry lists containing all the names are published. Persons who wish to vote without having been registered, must "swear in" their votes, *i.e.*, they must take oath that they are fully qualified. These requirements prevent certain practices that once were common, particularly that of "repeating," when voters went from one election district to another, claiming residence in each. In large cities, where illegal voting is hard to detect, persons who do not register are not allowed to swear in their votes.

[1] This is the legal method of making nominations in Minnesota, and in parts of California, New York, Ohio, Illinois, Maryland, Michigan, Missouri, and Oregon.

2. *The Official Ticket.* — Before the adoption of the Australian ballot system each party printed its own ticket, or tickets might be printed by candidates or by other persons. This made it possible to commit fraud in many different ways. The "stuffing" of ballot boxes with tissue-paper tickets which were folded together and made to look like one ticket, was one of the frauds. Again, a candidate might print tickets of the opposing party, inserting his own name instead of that of his rival. Pasters, or gummed slips, containing one candidate's name were used in the same way. Many times ignorant and careless voters were deceived by these devices. Under the Australian ballot system, the official ticket is printed at government expense, and it contains the names of the candidates for all parties. The elector merely marks the names of the candidates for whom he wishes to vote.

3. *The Secret Ballot.* — When separate party tickets were used, and these might be obtained from any person, it was possible to bribe a voter and then to watch him until he was seen to cast the particular ballot given to him. Under the Australian ballot system, on the other hand, tickets are obtainable only from election officials. The voter marks his ballot in a booth where he is screened from view. He may not show his marked ballot to any one. By these means the direct bribery of voters has been checked.

The Official Canvass. — When the polls are closed on election day, the *canvass* of the votes begins. The ballots are counted in the voting booths. Reports of the number of votes cast are sent to city and county clerks; these

officers send tabulated results to the Secretary of State. In each governmental division there is a board of canvassers which officially determines the results of the election and declares who are the successful candidates. To these, certificates of election are given, entitling them to take office.

The Theory of Elections. — It is the theory of our government that an election is one means by which the popular will is expressed. In order that this may be true, every voter must be able to cast his ballot freely and to have it counted fairly. But more than this, we must remember that the process of nomination is an essential step in elections. Consequently, it is no less necessary that the caucus and the convention should represent popular opinion within the party. The voter should have a chance to make his influence felt in the caucus; the delegates who assemble in convention should execute the will of the voters who choose them, when that is known; and all party leaders and candidates should be faithful to the interests of their constituents.

Independent Voters and Parties. — When these things are not true, or when the practice does not conform to our theory of elections, voters who have independence of mind "scratch" their tickets, selecting the best men regardless of party connections. Sometimes the independents go farther and organize independent movements, or new parties, nominating candidates whom they approve. In these ways, lack of judgment or misbehavior on the part of political leaders may be punished.

The Citizen's Duty. — Under ordinary conditions, however, the political work described in this chapter is in the hands of the regularly organized parties, and the citizen who has the public interests at heart may exert his influence most effectively by participating in party activities.

SUPPLEMENTARY QUESTIONS.

Elections in your State: —

1. Suffrage qualifications. Are these fixed by the constitution or by law? How may they be altered?
2. Nominations. What party committees can you learn about? When were caucuses last held in your locality, and for what purpose? How many were held preceding the last general election? How many conventions were there? What did each do?
3. The election. Draw a diagram showing the arrangement of the voting booth. What officers have charge of the election? Obtain a sample ballot and show how it is marked. What does the law require concerning (1) registration, (2) the printing of ballots, (3) secrecy in voting, (4) the official canvass?

QUESTIONS FOR DEBATE.

1. Should foreigners who have merely declared their intentions to become citizens be allowed to vote?
2. Should there be an educational test for voters?
3. Should the system of direct nomination be adopted?
4. Is it the citizen's duty to belong to and work with a political party?
5. Should members of a political party always vote a straight ticket?

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3. Machine Politics and the Boss, Bryce, Vol. II, Chapters 60–64; Ashley, The American Federal State, 444–453; Atl. Mo., 86: 289–299; Rev. of R's, 22: 222–223; Outlook, 69: 525–527.
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5. The Duties of Citizenship. Century Mag., 59: 959–960. A series of articles upon this topic by President Roosevelt are important: Century Mag., 59: 466–471; 60: 211–216, 939–944. The views of Justice David A. Brewer are presented in his book entitled American Citizenship.

CHAPTER XXIV.

TAXATION.

The Purpose of Taxation. — We have more than once commented upon the fact that officers of government are public servants; they are employed to conduct business which individual citizens could not conveniently manage for themselves. This results in a great saving of time and effort to people who are busily engaged in their private affairs. There is also great economy of expense in the employment of public officers, for the citizens can unite in hiring these services at much less cost than would be incurred by acting separately. This does not mean that government is always made as economical as it might be. But it is true that the expense involved in the protection of life and property and in obtaining the conveniences that all communities need is very small in comparison with the value of these things, when this expense is divided among the citizens.

The Property Tax. — Taxation is the process by which money is raised for public uses. Numerous methods are employed for determining how much each person shall pay toward the support of the government. The theory everywhere employed for this purpose is that each shall be taxed in proportion to the amount of property he owns,

for it is thought that one's ownership of property is the best evidence of his ability to pay the tax.[1]

The First Step: Assessment. — Necessarily, the first step in this kind of taxation is the process of determining how much property each person owns. This is the process of *assessment.* We have found the assessors, who do this work, included in the lists of town, village, and city officers. In some States the assessors are county officers. The assessor makes a list of all the property owners in his district, placing against the name of each the description of his property and its value. When the work of assessment is completed, the total assessed value of all the property in the town, village, or city can be ascertained.

The Levying of Taxes. — Another matter which we must now recall as mentioned in previous chapters, is the *tax levy* made by governing bodies, such as the town meeting or town board, the village board, and the city council. These bodies determine the amount of tax to be raised for the support of the local government. It is the proportion which this amount bears to the total assessed value that determines the *tax rate.* If in a certain locality the property is valued at $2,000,000, and the amount to be raised is $20,000, the rate of taxation will be 1 per cent. The tax of Mr. Jones, whose property is assessed at $1500, will therefore be 1 per cent of this amount, or $15.

[1] The extent to which this theory is correct is a difficult problem which the student will investigate as he studies more advanced works on government and political economy. The ease of assessment and collection of the property tax is another reason for its use.

Undervaluation. — We must now notice the important fact that although the law generally requires the assessors to list property at its full or actual cash value, this requirement is seldom observed. The practice of *undervaluing* property is very common. Now, if the extent of undervaluation were the same in every case, no injury would result to any one. Let us suppose, for instance, that property is uniformly assessed at one-half of its actual value. Then in the illustration used above the total assessed value would be $1,000,000, and the rate of taxation would be 2 per cent. since the amount to be raised is still $20,000. Mr. Jones's property would be valued at $750 and his tax would be $15 as before. In a single locality, therefore, uniform undervaluation merely results in raising the tax rate.

Correcting Errors in Assessments. — But, unfortunately, the property of some persons is often undervalued more than that of others; this causes an unjust distribution of the tax burden. We have in the local governments, therefore, *boards of review* or *boards of equalization*, which have the power to revise the assessment rolls and correct these inequalities. A person who thinks his assessment unfair may appear before this board and ask to have it reduced. In other cases the board may see fit to raise the assessments.

Taxes also levied by State and County Authorities. — The taxing body of the State government is the legislature, and in the county taxes are levied by the county board. When these bodies appropriate money for the expenses of government, they must vote to raise amounts sufficient to

cover these expenses. Of course these taxes, like those raised for local purposes, must be paid by the property owners. But they are not paid separately, for it is much more convenient to have the citizen pay all his taxes at one time and to the same collector. In order that this may be done, each local government must be informed of the amount of county and State taxes it is expected to raise. These amounts are added to the local tax levy, and as a result the tax rate is increased. The additional money thus collected is sent in the proper amounts to the county and State treasuries.

The Apportionment of State and County Taxes. — The most difficult part of this process is encountered when we attempt to determine how much each local unit shall pay of the county expenses, and how much of the State expenses should be borne by each county. Evidently, the rule in these cases must be the same as that for fixing each person's tax, *i.e.*, the tax should be in proportion to the value of the property found in each county and in each local unit. There is therefore a State board of equalization or assessment (or a State tax commission) which determines a proper valuation for each county and then *apportions* the State tax among the counties in proportion to these total valuations. In the same way some county authority, generally the county board, determines a proper valuation for each town, village, and city under its jurisdiction,[1] and then apportions the sum of county and State taxes among the local units in proportion to their valua-

[1] This step is unnecessary in States where the assessors and collectors are county rather than local officers.

tions. The county and State boards of equalization do not accept the total valuations as fixed by the assessors; for if the property in one town is assessed at three-fourths of its actual value, while in another it is assessed at one-half actual value, evidently the former will bear more than its just share of the county taxes. This is another way in which the practice of undervaluation leads to injustice.

The Calculation of the Rate. — It is now evident that every taxpayer contributes to the support of local, county, and State governments by the single payment of his tax; the tax for each of these governments must be included in the calculation of the rate. In the illustration already cited, the amount to be raised in one local unit will be the local tax, $20,000, plus its share of the county tax, $3500, plus its share of the State tax, $1500, making a total of $25,000. This is $1\frac{1}{4}$ per cent. of the assessed value, $2,000,000. The tax to be paid by Mr. Jones is $18.75. To this must be added the fee of the treasurer or collector to whom the tax is paid. If the property owner refuses or neglects to pay his taxes, they are declared *delinquent*, and the property may be seized and sold by the government.

Exemption from Taxation. — Many kinds of property are exempt from taxation, such as that owned by the government and that which is devoted to purely charitable and educational purposes. In most States church property is also exempt. It is customary for State laws to exempt from taxation a small amount of personal property, such as household furniture and clothing.

Real Estate and Personal Property. — The term *personal property* just used includes all property that is not *real*

estate; the latter term covers lands and buildings merely. Under the former term, therefore, we include not only furniture, clothing, and jewelry, but the stock of goods owned by the merchant and the manufacturer, the horses and cattle of the farmer, and all wagons, carriages, watches, and bicycles. Personal property also includes money, and such evidences of wealth as notes, bonds, stocks, and mortgages. Now, it is a matter of common knowledge that the kinds of property last mentioned are frequently omitted from the tax roll, either because the assessors do not make an effort to find them or because the owner conceals them or denies their existence. When this is true, great injustice is caused, for if one citizen fails to pay his just taxes, the burden which he should bear falls upon his neighbors; they must pay more because he has paid less. This is a great evil in the tax systems of most States. Consequently, the utmost power of government should be used to compel the assessment of all kinds of property that are not exempt.

All persons share in the benefits of our government, but not all pay taxes; for the number who have no taxable property whatever is very large. Yet we must remember that the renter of real estate pays the taxes on the property he occupies when he pays the rent; for if the property were exempt from taxation, the rate of rent would be lower. The merchant, also, asks larger profits on his goods, so that he will be able to pay his taxes. In these ways the burden is shifted in some measure to those who seem to escape taxation. Yet it cannot be denied that the property tax as a rule bears more heavily upon the poor than upon the rich, for the former are not so able to pay

the few dollars required of them as the latter are to pay their hundreds.

Inheritance and Income Taxes. — For this reason, numerous States have enacted *inheritance tax* laws. Inherited property, if above a certain amount, is taxed; and the rate is made to increase as the amount of property involved becomes greater. A few States have *income tax* laws, intended especially to reach those persons who have considerable incomes but little property.

Corporation Taxes. — Corporations, such as railroad and insurance companies, are sometimes exempted from local assessment and are taxed upon the amount of their property as estimated by a State board of assessment; or they may be taxed upon the amount of their annual earnings.

Other Taxes. — A *poll tax* is one that is payable by all male persons between certain ages, except such as are exempt. Governments derive much revenue from *licenses* and from *fees* of various kinds. *Special assessments* are levied against property owners when a local government makes improvements that enhance the value of their property, as by the paving of a street.

How the Government borrows Money. — When a government makes a large expenditure for some permanent improvement, it is wise to spread the taxation thus made necessary over a long period of time. So *bonds* are issued. These are merely promises to pay the money that is thus borrowed at a certain time, with interest. The bonds are generally made to fall due at intervals of one or more years, so that the tax levy of a single year

may not be unduly increased. Great abuses are liable to occur in connection with the contraction of debts, because legislative bodies of all kinds are easily persuaded to borrow excessive sums of money. State constitutions often contain limitations upon the power of the State and the local governments to borrow money, and in many instances a special vote of the people is required before the power can be exercised. We should remember that to borrow is merely to *postpone*, not to *avoid* taxation; and that the businesslike method of conducting government finances is to provide for each year's expenses in the tax levy; a reasonable exception to this being found in the case of extensive public improvements, the benefits of which are to be spread over considerable periods of time.

SUPPLEMENTARY QUESTIONS.

Taxation in your State.

1. Who make assessments of property? Do they assess at full value?
2. What boards of review or equalization are there?
3. Who collects taxes? What fees does he receive?
4. What kinds of property are exempt from taxation? Why, in each case?
5. Does intangible personal property (notes, bonds, and mortgages) escape taxation?
6. What other kinds of taxes are employed, besides the property tax, to support the State and local governments?
7. What limitations, on the contraction of debts by governments, are fixed in your State constitution and laws?
8. What is the rate of taxation in your locality? How was it calculated? How much were the taxes of a man whose property was valued at $2500?

QUESTIONS FOR DISCUSSION.

1. Why do people look upon taxes as a great evil?

2. Who suffers injustice when property is concealed from the assessor? How should this be regarded by good citizens?
3. Is the income tax fairer than the property tax?

REFERENCES.

1. General Accounts, Bryce, Vol. I, Chapter 43; Ashley, The American Federal State, 478–481; Holt, Talks on Civics, Chapter 31.
2. Taxation Reform, Arena, 23: 485–491; 25: 499–506.
3. Taxation of Mortgages, Outlook, 66: 728–729.

CHAPTER XXV.

JUDICIAL TRIALS.

Courts and their Officers. — The system of courts existing in a State constitutes the judicial department of its government. Every court has one or more judges, and for the trial of most cases juries are necessary as well. The police officers, such as constables, sheriffs, policemen, and marshals, are also officers of the court. They bring into court those who are accused of violating the law, and they carry out the court's orders during the progress of the trial and at the close when the questions involved in the case are decided. So the process of arrest, which we have learned of in previous chapters as an important function of police officers, is but the first step in the determining of justice.

The Complaint and the Warrant. — Before a person who is thought to have committed a crime can be arrested, a formal *complaint* must be made and sworn to by an officer or by the injured party. When this is done, a warrant of arrest is issued by a judge or a justice of the peace. It is true that a suspicious person or an offender who is caught in the act may be temporarily detained by a police officer without a warrant; but he cannot be held for a longer time unless a complaint or accusation is made against him which states in precise terms the offense with which he is

charged. Furthermore, this accusation cannot be lightly made, for the law punishes severely the making of sworn statements of any kind which have little or no basis in fact.

Why the Law is not Enforced. — May we not find here the reason why so many offenses go unpunished? If police officers are negligent, they may fail to find sufficient evidence upon which to make a complaint in legal form. Citizens who are busily engaged in private pursuits dislike to search out violators of the law unless their private interests suffer injury. Consequently, offenses against good order and decency are overlooked in many instances. That such offenses are committed may be a matter of common knowledge; but the apathy of public officers and the indifference of citizens, and the dislike of all persons to be brought publicly into connection with such matters — any or all of these conditions may account for the lack of a complaint upon which a warrant of arrest may be issued.

Holding the Prisoner for Trial. — When a supposed offender has been arrested, either one of two processes may follow. (1) If the offense charged is slight, he may be tried at once in a local court; that is, before the justice of peace in a town or a village, or the police justice of a city. (2) In more serious cases he must be tried in the principal court of the county, known as the circuit, or district, court, or the court of common pleas. Now, this court may not be in session at the time of the arrest, and some means must be found for judging whether there is sufficient evidence against the prisoner to justify holding him for trial. For if persons could be held for several weeks or months

upon the basis of a complaint merely, great injustice might frequently result. So the accused is examined before a local court; and if there are good grounds for believing that he is guilty, he is held until the session of court occurs. He may be imprisoned, or he may be released on *bail*. His friends who sign his *bail bond* agree to forfeit a certain sum of money if he does not present himself in court at the time fixed for his trial.

The Work of the Grand Jury. — The formal *indictment* of the prisoner is made by the *grand jury*, a body of men before whom the evidence is presented by the public prosecutor or district attorney. The grand jury, which is composed of citizens chosen by lot, holds its sessions regularly and also upon special calls issued by a judge. This body sits in secret and decides whether persons who have been arrested by the process described above shall submit to trial. It may take several courses of action. (1) A prisoner may be held for trial, *i.e.*, *indicted;* or he may be released if the grand jury thinks a mistake has been made in his arrest and detention. (2) It is the duty of the grand jury to consider evidence that the prosecuting attorney may present to it against any one suspected of crime who may not have been arrested. (3) The grand jury may of its own accord proceed to collect evidence by summoning witnesses, and thus they may ferret out violators of the law against whom no accusation has been made. We thus see the importance of the grand jury. The work of the prosecuting attorney is also important, because the enforcement of the law and the punishment of its violators depend to a great extent upon the energy and integrity of

this officer, and also because he is the attorney who represents the interests of the people in all criminal cases.

In a few States the grand jury is dispensed with in ordinary cases. An accused person is given a preliminary examination before a local justice to determine whether he shall be held for trial. Great care should be taken to distinguish the preliminary processes which have been described from the actual trial which follows.

The Process of Jury Trial. — For the trial of all the cases that are to be decided during a certain session of a court, there is summoned a list of *petit jurors.*

The petit jurors must all be in attendance during this session of the court. From them a trial jury of twelve persons is selected for each case. Jurors are summoned to court by a legal writ called a *venire*, and witnesses are summoned by another writ called a *subpœna.* The taking of evidence is followed by arguments or *pleas* made by the attorneys. At their close the judge delivers a *charge*, instructing the jury concerning the law involved in the case. The jury then retires to deliberate in secret, and when it reaches an agreement renders its *verdict.* The *judgment* of the court, discharging the accused if he is found innocent, or fixing his punishment if guilty, is carried into execution by a police officer.

The Rights of Accused Persons. — During the course of the trial the accused person is protected in all possible ways from injustice; the trial must be conducted upon the assumption that he is innocent, and his guilt must be proved beyond a reasonable doubt. The Bills of Rights in State constitutions provide in various ways against the miscarriage of justice. The accused person is guaranteed a

speedy trial before an impartial jury; he may have witnesses in his favor, and the government will employ an attorney for him, if he cannot do this for himself. These requirements are made not merely that justice may be done in each case, but also because it is better that many guilty persons should escape than that one who is innocent should be punished. Still another reason why the rights of accused persons are guarded is because there is greater assurance that the guilty will receive the punishment they deserve, if their rights are protected in a reasonable way.

Criminal Cases. — So far we have dealt only with criminal cases. Here it is considered that besides the injury that may have been done to a particular person, the public has also suffered through the violation of its peace and good order. Hence criminal cases are begun by a public officer, the prosecuting attorney; for the public, as well as the injured party, is *plaintiff*. The prisoner is the *defendant* in the case. These facts are illustrated in cases arising when robbery or murder has been committed, when public money has been stolen, or when the public's sense of decency is shocked by disturbances of the peace.

Civil Cases. — At this point we may notice the difference between criminal and civil cases. In the latter the public is not ordinarily a party. The plaintiff sues the defendant for the recovery of property, or for the recovery of a right of which he claims to be deprived. Thus we have suits involving the ownership of property, the payment of wages, the settlement of debts, and the fulfillment of the many kinds of contracts. These are suits arising out of

differences between individuals. The government may, however, sue an individual or a corporation; and, on the other hand, the government may be sued by them.[1] These also are civil cases, and in the trial of them the public attorney is lawyer for the government.

Jury trials are customary in civil cases; but many times, when merely legal questions are in dispute, the judge alone decides the case. The parties to a civil case may agree to dispense with a jury.

Defects of the Jury System. — The question has sometimes been asked whether a system under which cases would be heard and decided by a bench of several judges would not be more satisfactory than our present jury system. It cannot be denied that the administration of justice by means of a jury is often very faulty. One of the reasons for this is found in the difficulty of securing men who are thoroughly qualified to serve as jurors. Several difficulties may be noticed. (1) In the first place, a great number of intelligent men are exempt from jury duty. (2) Then, too, the power of preparing the lists from which petit jurors are drawn is often placed with local officers who exercise it corruptly; men are chosen for political reasons, or under the influence of powerful attorneys or the parties to important suits. (3) Again, the most intelligent men on the list of petit jurors may be excluded from the trial jury of an important case on the ground that they have formed an opinion of the matter to be tried. (4) Attorneys are allowed to *challenge*, either

[1] See p. 160, where Amendment XI to the United States Constitution is noted as an exception to this statement.

with or without the statement of a cause or reason, the men whom they do not wish to see on the jury for a certain case. This serves to protect their clients against jurors who are prejudiced; it is also a means of so constituting juries that they may be easily influenced by skilful attorneys. (5) Finally, justice is sometimes defeated by the downright bribery of jurors — a crime of the most serious nature.

In enumerating the reasons why jurors are sometimes incompetent, it must be said that too often the most capable men shirk jury duty; they begrudge the sacrifice of time that it involves, and they give both good and poor reasons why they should be excused from jury service. Thus are made possible many of the evils that we have noticed in the selection of jurymen.

Advantages of the Jury System. — In spite of the many faults that appear in the workings of the jury system, its place in our government is stable, for it is founded upon important principles. Some arguments in its favor may be mentioned: (1) This system insures publicity in the proceedings of trials, and publicity is always a deadly enemy of bad government. (2) Again, juries decide the *facts* in suits at law, while the judge decides points of law. In the performance of their duty, then, the jury must exercise that "common sense" which is at the foundation of all justice. The plain judgment of one's equals, though it may err in some cases, is, "in the long run," a safer guide than the judgment of any individual or any class. This idea is fundamental in a democracy.

Cases may be Appealed. — Every State has several grades of courts, the lower ones being for the consideration of

unimportant cases. Under certain conditions cases may be *appealed* from lower to higher courts on the claim made by the losing party that an error has been committed in the trial. At the head of the judicial system is a Supreme Court, or a Court of Appeals, which makes final decisions in cases arising under the State laws and constitution that have been appealed to it from the lower courts.

SUPPLEMENTARY QUESTIONS.

The judicial system of your State.

1. **Make a list of the State courts under the following heads: —**

Courts. | Number of Judges. | Term of Office. | Jurisdiction.[1]

2. **How is the grand jury composed, and how is it chosen? When are its sessions held?**
3. **How are petit and trial juries selected?**
4. **What fees are paid to witnesses and to jurymen?**
5. **Make a list of the rights guaranteed to accused persons by your constitution.**
6. **What is the meaning of the following terms: perjury, change of venue, cross-examination, search warrant?**
7. **Obtain blank forms for complaint, warrant of arrest, search warrant, venire, subpœna.**
8. **Compare our trial methods with those practiced in Russia.**
9. **What is the citizen's duty in connection with jury service?**

REFERENCES.

1. **What changes have been made in our judicial systems? Bryce, Vol. I, 483–489 (504–511).**
2. **What are the benefits of jury duty? Century Mag., 59: 802.**

[1] In learning of a court's jurisdiction, we ask — What cases may come before it for trial? (See your State constitution.)

CHAPTER XXVI.

PUBLIC SCHOOL SYSTEMS.

The Purpose of Public Education. — In our country, schools are supported at public expense because we believe that it is the duty of the government to furnish to every young citizen the opportunity for an education; and also because we believe no less thoroughly that it is the duty of every citizen to obtain an education. These principles are seen to be supported by the soundest reason, when we consider the nature of our government and the extent to which citizens may participate in governmental affairs; as, for example, in elections and in trials. These facts make it evident that the character of our government depends to a great degree upon the intelligence and virtue of the people.

Now, it is not entirely necessary that in order to become intelligent and virtuous one should receive an education in a school; but it is true that these desirable qualities are best fostered among the mass of citizens where public education is most available and most earnestly sought. In a measure, therefore, we provide free public education as a means of preserving our political system in its purity; it is no less true that the soundness of all social and industrial life depends upon the intelligence of the people. The

importance which we attach to education is indicated not only by the fact that the public schools are free, but also by the existence of laws in the States compelling the attendance of all children at the schools.

The District and Township Systems. — Public school systems are governed largely by local boards and officers. There are three types of school organization, according as the district, the township, or the county is made the unit of school government. School districts are generally divisions of towns, and in rural communities they frequently include within their limits only a small number of families. Where these conditions prevail, the school that is maintained will, in most cases, be poorly equipped, and the teacher will be paid a low salary; as a consequence, the grade of instruction will be poor. For these reasons, it is urged that the township should be the unit for school government; then fewer schools will be maintained, and these will be of higher grade. In many instances it has been found a saving of expense to abolish small rural schools and to transport pupils to central township schools.

Local School Officers. — The local board of trustees or commissioners having charge of school affairs is composed of officers who are generally elected by the people. In cities, school boards are sometimes appointed. These officers build and maintain schoolhouses, employ teachers, purchase supplies, and have general oversight of the financial side of school government.

The Selection of Teachers. — School government has its professional as well as its business side, and the former is

of great importance. In fact, the success of our schools, from an educational standpoint, depends much more upon the skill of the teachers than upon the equipment that may be supplied in the form of buildings, libraries, and apparatus. Consequently, the selection of teachers should be made with a view to their qualifications, and not, as is so frequently the case, on the grounds of politics or personal friendship. When school boards select teachers, the latter influence sometimes determines their choice. In cities, one of the important duties of superintendents should be the selection of teachers purely on their merits.

One method of determining the qualifications of teachers is by examination in certain branches that are prescribed by law. Those who are successful in passing these examinations obtain certificates entitling them to teach. The examining authorities are city and county superintendents, and there is often a State board of examiners; or the State superintendent or the board of education may perform this function.

Supervisory Officers, Local and State. — The work of the schools where even the best teachers are employed may be made more profitable by skillful supervision. All cities have school superintendents, and county superintendents perform similar duties in the counties of most States. The State superintendents and boards of education exercise very general powers of this nature, but their powers are, in most cases, chiefly advisory.

The Financial Support of Common Schools. — More than $200,000,000 are expended annually for the support of our public school systems. This money is derived from several

sources: (1) The greatest part is raised by taxation in the local units, towns, villages, and cities. These taxes may be voted by school boards, or by the people in those places where school district meetings are held.

(2) Some State governments raise taxes for the support of schools and then redistribute the money among the various local units in proportion to the number of children of school age. In this way poorer communities receive aid for their schools from taxes that are raised by the richer communities.

(3) Another source of school money is the school fund, which is found particularly in the Western States. A fund is a sum of money which is set apart for a particular purpose. School funds in the Western States originate in the sale of lands which were granted to the States by the National government for this purpose. The States admitted into the Union before 1848 received section 16 (one square mile) of each township;[1] since 1848, new States have received both sections 16 and 36 in every township. These immense tracts of land have been sold by the States to settlers and investors, and the proceeds constitute the school funds. These funds are not expended, but are loaned or invested in such a way as to bear interest, and the income derived in this way is distributed annually among the common schools. Unfortunately, school land was sometimes carelessly handled by the State authorities, and much of it was sold very cheap; so the school funds are not large, and the incomes derived from them do not go far toward supporting the public schools.

[1] See diagrams and explanation, pp. 170–174.

Illiteracy. — The great sum expended for the common schools is not sufficient to reduce the percentage of illiteracy in the United States to so low a point as exists in several European countries; for in this country fewer persons can read and write, in proportion to the total population, than in Switzerland, Scotland, Holland, England, and France.[1]

Secondary Schools. — We have so far considered the systems of elementary schools in which the greatest number of American citizens secure their education. Secondary or high schools are also a part of our educational systems, and these are usually under the control of the same authorities as the elementary schools. Technical or trade schools are becoming more common, especially in cities.

Higher Education. — State universities are found in numerous states; these are supported by taxation and by the proceeds derived from the sale of lands that have been donated to the States for this purpose by the United States government. The National government also makes direct appropriations of money to the States that maintain agricultural and technical colleges. Professional schools, such as those for the training of lawyers and doctors, are maintained in connection with some State universities. It is the policy of many States to encourage the improvement of the common schools by the support of normal schools, in which teachers are educated and receive professional training.

SUPPLEMENTARY QUESTIONS.

The school system of your State.

1. **In the rural districts, is the unit of school government the district, the township, or the county? Which plan do you consider the best?**

[1] See statistics of illiteracy in "Government in State and Nation," p. 92.

2. Is there a county superintendent? If so, what are his powers and duties? Is he appointed or elected?
3. What is the authority governing the school systems of cities? How do the officers get their positions? What are their powers?
4. How is the State department of education constituted? How much real authority is lodged here? Should this be increased?
5. In how many ways may teachers' certificates be obtained? What grades of certificates are there?
6. The reports issued by the State department of education give the amounts of money raised by local and by State taxation for school purposes. Here, also, may be learned facts about the school fund, if one exists.

REFERENCES.

1. Ashley, The American Federal State, 371–375. Holt, Talks on Civics, Chapter 28.
2. Politics and Public Schools, Atl. Mo., 87: 433–447.
3. Consolidation of Schools, Forum, 33: 103–108.

APPENDIX A

CONSTITUTION

OF THE

UNITED STATES OF AMERICA

We the people of the United States, in order to form a more perfect union, establish justice, insure domestic tranquillity, provide for the common defense, promote the general welfare, and secure the blessings of liberty to ourselves and our posterity, do ordain and establish this Constitution for the United States of America.

ARTICLE I.

Section I. All legislative powers herein granted shall be vested in a Congress of the United States, which shall consist of a Senate and a House of Representatives.

Sect. II. 1. The House of Representatives shall be composed of members chosen every second year by the people of the several States, and the electors in each State shall have the qualifications requisite for electors of the most numerous branch of the State Legislature.

2. No person shall be a Representative who shall not have attained to the age of twenty-five years, and been seven years a citizen of the United States, and who shall not, when elected, be an inhabitant of that State in which he shall be chosen.

3. Representatives and direct taxes shall be apportioned among the several States which may be included within this Union, according to their respective numbers, which shall be determined by adding to the whole number of free persons, including those bound to service for a

term of years, and excluding Indians not taxed, three fifths of all other persons. The actual enumeration shall be made within three years after the first meeting of the Congress of the United States, and within every subsequent term of ten years, in such manner as they shall by law direct. The number of Representatives shall not exceed one for every thirty thousand, but each State shall have at least one representative; and until such enumeration shall be made, the State of New Hampshire shall be entitled to choose three, Massachusetts eight, Rhode Island and Providence Plantations one, Connecticut five, New York six, New Jersey four, Pennsylvania eight, Delaware one, Maryland six, Virginia ten, North Carolina five, South Carolina five, and Georgia three.

4. When vacancies happen in the representation from any State, the Executive authority thereof shall issue writs of election to fill such vacancies.

5. The House of Representatives shall choose their Speaker and other officers; and shall have the sole power of impeachment.

SECT. III. 1. The Senate of the United States shall be composed of two Senators from each State, chosen by the legislature thereof, for six years; and each Senator shall have one vote.

2. Immediately after they shall be assembled in consequence of the first election, they shall be divided as equally, as may be into three classes. The seats of the Senators of the first class shall be vacated at the expiration of the second year, of the second class at the expiration of the fourth year, and of the third class at the expiration of the sixth year, so that one third may be chosen every second year; and if vacancies happen by resignation or otherwise, during the recess of the legislature of any State, the Executive thereof may make temporary appointments until the next meeting of the legislature, which shall then fill such vacancies.

3. No person shall be a Senator who shall not have attained to the age of thirty years, and been nine years a citizen of the United States, and who shall not, when elected, be an inhabitant of that State for which he shall be chosen.

4. The Vice-President of the United States shall be President of the Senate, but shall have no vote, unless they be equally divided.

5. The Senate shall choose their other officers, and also a President *pro tempore*, in the absence of the Vice-President, or when he shall exercise the office of President of the United States.

6. The Senate shall have the sole power to try all impeachments. When sitting for that purpose, they shall be on oath or affirmation. When the President of the United States is tried, the Chief Justice shall preside: and no person shall be convicted without the concurrence of two thirds of the members present.

7. Judgment in cases of impeachment shall not extend further than to removal from office, and disqualification to hold and enjoy any office of honor, trust or profit under the United States: but the party convicted shall nevertheless be liable and subject to indictment, trial, judgment and punishment, according to law.

SECT. IV. 1. The times, places and manner of holding elections for Senators and Representatives shall be prescribed in each State by the legislature thereof; but the Congress may at any time by law make or alter such regulations, except as to the places of choosing Senators.

2. The Congress shall assemble at least once in every year, and such meeting shall be on the first Monday in December, unless they shall by law appoint a different day.

SECT. V. 1. Each house shall be the judge of the elections, returns and qualifications of its own members, and a majority of each shall constitute a quorum to do business; but a smaller number may adjourn from day to day, and may be authorized to compel the attendance of absent members, in such manner, and under such penalties, as each house may provide.

2. Each house may determine the rules of its proceedings, punish its members for disorderly behavior, and with the concurrence of two thirds, expel a member.

3. Each house shall keep a journal of its proceedings, and from time to time publish the same, excepting such parts as may in their judgment require secrecy; and the yeas and nays of the members of either house on any question shall, at the desire of one fifth of those present, be entered on the journal.

4. Neither house, during the session of Congress, shall, without the

consent of the other, adjourn for more than three days, nor to any other place than that in which the two houses shall be sitting.

SECT. VI. 1. The Senators and Representatives shall receive a compensation for their services, to be ascertained by law and paid out of the treasury of the United States. They shall in all cases except treason, felony and breach of the peace, be privileged from arrest during their attendance at the session of their respective houses, and in going to and returning from the same; and for any speech or debate in either house, they shall not be questioned in any other place.

2. No Senator or Representative shall, during the time for which he was elected, be appointed to any civil office under the authority of the United States, which shall have been created, or the emoluments whereof shall have been increased, during such time; and no person holding any office under the United States shall be a member of either house during his continuance in office.

SECT. VII. 1. All bills for raising revenue shall originate in the House of Representatives; but the Senate may propose or concur with amendments as on other bills.

2. Every bill which shall have passed the House of Representatives and the Senate, shall, before it become a law, be presented to the President of the United States; if he approve he shall sign it, but if not he shall return it with his objections to that house in which it shall have originated, who shall enter the objections at large on their journal, and proceed to reconsider it. If after such reconsideration two thirds of that house shall agree to pass the bill, it shall be sent, together with the objections, to the other house, by which it shall likewise be reconsidered, and, if approved by two thirds of that house, it shall become a law. But in all such cases the votes of both houses shall be determined by yeas and nays, and the names of the persons voting for and against the bill shall be entered on the journal of each house respectively. If any bill shall not be returned by the President within ten days (Sundays excepted) after it shall have been presented to him, the same shall be a law, in like manner as if he had signed it, unless the Congress by their adjournment prevent its return, in which case it shall not be a law.

3. Every order, resolution, or vote to which the concurrence of the Senate and House of Representatives may be necessary (except on a

question of adjournment) shall be presented to the President of the United States; and before the same shall take effect, shall be approved by him, or being disapproved by him, shall be repassed by two thirds of the Senate and House of Representatives, according to the rules and limitations prescribed in the case of a bill.

SECT. VIII. The Congress shall have power

1. To lay and collect taxes, duties, imposts, and excises, to pay the debts and provide for the common defense and general welfare of the United States; but all duties, imposts and excises shall be uniform throughout the United States;

2. To borrow money on the credit of the United States;

3. To regulate commerce with foreign nations, and among the several States, and with the Indian tribes;

4. To establish an uniform rule of naturalization, and uniform laws on the subject of bankruptcies throughout the United States;

5. To coin money, regulate the value thereof, and of foreign coin, and fix the standard of weights and measures;

6. To provide for the punishment of counterfeiting the securities and current coin of the United States;

7. To establish post offices and post roads;

8. To promote the progress of science and useful arts by securing for limited times to authors and inventors the exclusive right to their respective writings and discoveries;

9. To constitute tribunals inferior to the Supreme Court;

10. To define and punish piracies and felonies committed on the high seas and offences against the law of nations;

11. To declare war, grant letters of marque and reprisal, and make rules concerning captures on land and water;

12. To raise and support armies, but no appropriation of money to that use shall be for a longer term than two years;

13. To provide and maintain a navy;

14. To make rules for the government and regulation of the land and naval forces;

15. To provide for calling forth the militia to execute the laws of the Union, suppress insurrections, and repel invasions;

16. To provide for organizing, arming and disciplining the militia,

and for governing such part of them as may be employed in the service of the United States, reserving to the States respectively the appointment of the officers, and the authority of training the militia according to the discipline prescribed by Congress;

17. To exercise exclusive legislation in all cases whatsoever, over such district (not exceeding ten miles square) as may, by cession of particular States, and the acceptance of Congress, become the seat of government of the United States, and to exercise like authority over all places purchased by the consent of the legislature of the State, in which the same shall be, for the erection of forts, magazines, arsenals, dockyards, and other needful buildings; — and

18. To make all laws which shall be necessary and proper for carrying into execution the foregoing powers, and all other powers vested by this Constitution in the government of the United States, or in any department or office thereof.

SECT. IX. 1. The migration or importation of such persons as any of the States now existing shall think proper to admit shall not be prohibited by the Congress prior to the year one thousand eight hundred and eight; but a tax or duty may be imposed on such importation, not exceeding ten dollars for each person.

2. The privilege of the writ of *habeas corpus* shall not be suspended, unless when in cases of rebellion or invasion the public safety may require it.

3. No bill of attainder or *ex post facto* law shall be passed.

4. No capitation, or other direct, tax shall be laid, unless in proportion to the census or enumeration herein before directed to be taken.

5. No tax or duty shall be laid on articles exported from any State.

6. No preference shall be given by any regulation of commerce or revenue to the ports of one State over those of another: nor shall vessels bound to, or from, one State, be obliged to enter, clear, or pay duties in another.

7. No money shall be drawn from the treasury, but in consequence of appropriations made by law; and a regular statement and account of the receipts and expenditures of all public money shall be published from time to time.

8. No title of nobility shall be granted by the United States: and no

person holding any office of profit or trust under them, shall, without the consent of the Congress, accept of any present, emolument, office, or title, of any kind whatever, from any king, prince, or foreign state.

SECT. X. 1. No State shall enter into any treaty, alliance, or confederation; grant letters of marque and reprisal; coin money; emit bills of credit; make anything but gold and silver coin a tender in payment of debts; pass any bill of attainder, *ex post facto* law, or law impairing the obligation of contracts, or grant any title of nobility.

2. No State shall, without the consent of the Congress, lay any imposts or duties on imports or exports, except what may be absolutely necessary for executing its inspection laws: and the net produce of all duties and imposts, laid by any State on imports or exports, shall be for the use of the treasury of the United States; and all such laws shall be subject to the revision and control of the Congress.

3. No State shall, without the consent of Congress, lay any duty of tonnage, keep troops, or ships of war in time of peace, enter into any agreement or compact with another State, or with a foreign power, or engage in war, unless actually invaded, or in such imminent danger as will not admit of delay.

ARTICLE II.

SECTION I. 1. The executive power shall be vested in a President of the United States of America. He shall hold his office during the term of four years, and together with the Vice-President, chosen for the same term, be elected as follows:

2. Each State shall appoint, in such manner as the legislature thereof may direct, a number of electors, equal to the whole number of Senators and Representatives to which the State may be entitled in the Congress; but no Senator or Representative, or person holding an office of trust or profit under the United States, shall be appointed an elector.

[The electors shall meet in their respective States, and vote by ballot for two persons, of whom one at least shall not be an inhabitant of the same State with themselves. And they shall make a list of all the persons voted for, and of the number of votes for each; which list they shall sign and certify, and transmit sealed to the seat of government of the United States, directed to the President of the Senate. The Presi-

dent of the Senate shall, in the presence of the Senate and House of Representatives, open all the certificates, and the votes shall then be counted. The person having the greatest number of votes shall be the President, if such number be a majority of the whole number of electors appointed; and if there be more than one who have such majority, and have an equal number of votes, then the House of Representatives shall immediately choose by ballot one of them for President; and if no person have a majority, then from the five highest on the list the said house shall in like manner choose the President. But in choosing the President the votes shall be taken by States, the representation from each State having one vote; a quorum for this purpose shall consist of a member or members from two thirds of the States, and a majority of all the States shall be necessary to a choice. In every case, after the choice of the President, the person having the greatest number of votes of the electors shall be the Vice-President. But if there should remain two or more who have equal votes, the Senate shall choose from them by ballot the Vice-President.]

3. The Congress may determine the time of choosing the electors, and the day on which they shall give their votes; which day shall be the same throughout the United States.

4. No person except a natural born citizen, or a citizen of the United States, at the time of the adoption of this Constitution, shall be eligible to the office of President; neither shall any person be eligible to that office who shall not have attained to the age of thirty-five years, and been fourteen years a resident within the United States.

5. In case of the removal of the President from office or of his death, resignation, or inability to discharge the powers and duties of the said office, the same shall devolve on the Vice-President, and the Congress may by law provide for the case of removal, death, resignation, or inability, both of the President and Vice-President, declaring what officer shall then act as President, and such officer shall act accordingly, until the disability be removed, or a President shall be elected.

6. The President shall, at stated times, receive for his services, a compensation, which shall neither be increased nor diminished during the period for which he shall have been elected, and he shall not re-

ceive within that period any other emolument from the United States, or any of them.

7. Before he enter on the execution of his office, he shall take the following oath or affirmation: — "I do solemnly swear (or affirm) that I will faithfully execute the office of President of the United States, and will to the best of my ability, preserve, protect and defend the Constitution of the United States."

SECT. II. 1. The President shall be commander in chief of the army and navy of the United States, and of the militia of the several states, when called into the actual service of the United States; he may require the opinion, in writing, of the principal officer in each of the executive departments, upon any subject relating to the duties of their respective offices, and he shall have power to grant reprieves and pardons for offenses against the United States, except in cases of impeachment.

2. He shall have power, by and with the advice and consent of the Senate, to make treaties, provided two thirds of the Senators present concur; and he shall nominate, and by and with the advice and consent of the Senate, shall appoint ambassadors, other public ministers and consuls, judges of the Supreme Court, and all other officers of the United States, whose appointments are not herein otherwise provided for, and which shall be established by law: but the Congress may by law vest the appointment of such inferior officers, as they think proper, in the President alone, in the courts of law, or in the heads of departments.

3. The President shall have power to fill up all vacancies that may happen during the recess of the Senate, by granting commissions which shall expire at the end of their next session.

SECT. III. He shall from time to time give to the Congress information of the state of the Union, and recommend to their consideration such measures as he shall judge necessary and expedient; he may, on extraordinary occasions, convene both houses, or either of them, and in case of disagreement between them, with respect to the time of adjournment, he may adjourn them to such time as he shall think proper; he shall receive ambassadors and other public ministers; he shall take care that the laws be faithfully executed, and shall commission all the officers of the United States.

SECT. IV. The President, Vice-President and all civil officers of the United States, shall be removed from office on impeachment for, and conviction of, treason, bribery, or other high crimes and misdemeanors.

ARTICLE III.

SECTION I. The judicial power of the United States, shall be vested in one Supreme Court, and in such inferior courts as Congress may from time to time ordain and establish. The judges, both of the Supreme and inferior courts, shall hold their offices during good behavior, and shall, at stated times, receive for their services, a compensation, which shall not be diminished during their continuance in office.

SECT. II. 1. The judicial power shall extend to all cases, in law and equity, arising under this Constitution, the laws of the United States, and treaties made or which shall be made, under their authority; — to all cases affecting ambassadors, other public ministers and consuls; — to all cases of admiralty jurisdiction; — to controversies to which the United States shall be a party; — to controversies between two or more States; — between a State and citizens of another State; — between citizens of different States; — between citizens of the same State claiming lands under grants of different States, and between a State, or the citizens thereof, and foreign states, citizens or subjects.

2. In all cases affecting ambassadors, other public ministers and consuls, and those in which a State shall be a party, the Supreme Court shall have original jurisdiction. In all the other cases before mentioned, the Supreme Court shall have appellate jurisdiction, both as to law and fact, with such exceptions, and under such regulations as the Congress shall make.

3. The trial of all crimes, except in cases of impeachment, shall be by jury; and such trial shall be held in the State where the said crimes shall have been committed; but when not committed within any State, the trial shall be at such place or places as the Congress may by law have directed.

SECT. III. 1. Treason against the United States shall consist only in levying war against them, or in adhering to their enemies, giving them aid and comfort. No person shall be convicted of treason unless

on the testimony of two witnesses to the same overt act, or on confession in open court.

2. The Congress shall have power to declare the punishment of treason, but no attainder of treason shall work corruption of blood, or forfeiture except during the life of the person attainted.

ARTICLE IV.

SECTION I. Full faith and credit shall be given in each State to the public acts, records, and judicial proceedings of every other State. And the Congress may by general laws prescribe the manner in which such acts, records, and proceedings shall be proved, and the effect thereof.

SECT. II. 1. The citizens of each State shall be entitled to all privileges and immunities of citizens in the several States.

2. A person charged in any State with treason, felony, or other crime, who shall flee from justice, and be found in another State, shall on demand of the executive authority of the State from which he fled, be delivered up, to be removed to the State having jurisdiction of the crime.

3. No person held to service or labor in one State, under the laws thereof, escaping into another, shall, in consequence of any law or regulation therein, be discharged from such service or labor, but shall be delivered up on claim of the party to whom such service or labor may be due.

SECT. III. 1. New States may be admitted by the Congress into this Union; but no new State shall be formed or erected within the jurisdiction of any other State; nor any State be formed by the junction of two or more States, or parts of States, without the consent of the legislatures of the States concerned as well as of the Congress.

2. The Congress shall have power to dispose of and make all needful rules and regulations respecting the territory or other property belonging to the United States; and nothing in this Constitution shall be so construed as to prejudice any claims of the United States, or of any particular State.

SECT. IV. The United States shall guarantee to every State in this

Union a republican form of government, and shall protect each of them against invasion; and on application of the legislature, or of the executive (when the legislature cannot be convened) against domestic violence.

ARTICLE V.

The Congress, whenever two thirds of both houses shall deem it necessary, shall propose amendments to this Constitution, or, on the application of the legislatures of two thirds of the several States, shall call a convention for proposing amendments, which, in either case shall be valid to all intents and purposes, as part of this Constitution, when ratified by the legislatures of three fourths of the several States, or by conventions in three fourths thereof, as the one or the other mode of ratification may be proposed by the Congress; provided that no amendments which may be made prior to the year one thousand eight hundred and eight shall in any manner affect the first and fourth clauses in the ninth section of the first article; and that no State, without its consent, shall be deprived of its equal suffrage in the Senate.

ARTICLE VI.

1. All debts contracted and engagements entered into, before the adoption of this Constitution, shall be as valid against the United States under this Constitution, as under the Confederation.

2. This Constitution, and the laws of the United States which shall be made in pursuance thereof; and all treaties made, or which shall be made, under the authority of the United States, shall be the supreme law of the land; and the judges in every State shall be bound thereby, anything in the Constitution or laws of any State to the contrary notwithstanding.

3. The Senators and Representatives before mentioned, and the members of the several State legislatures, and all executive and judicial officers, both of the United States and of the several States, shall be bound by oath or affirmation, to support this Constitution; but no religious test shall ever be required as a qualification to any office or public trust under the United States.

ARTICLE VII.

The ratification of the conventions of nine States, shall be sufficient for the establishment of this Constitution between the States so ratifying the same.

Done in Convention by the unanimous consent of the States present, the seventeenth day of September in the year of our Lord one thousand seven hundred and eighty-seven and of the Independence of the United States of America the twelfth. In witness whereof we have hereunto subscribed our names.

[Signed by] Gº WASHINGTON,
Presidt and Deputy from Virginia.

NEW HAMPSHIRE.
John Langdon,
Nicholas Gilman.

MASSACHUSETTS.
Nathaniel Gorham,
Rufus King.

CONNECTICUT.
Wm. Saml. Johnson,
Roger Sherman.

NEW YORK.
Alexander Hamilton.

NEW JERSEY.
Wil: Livingston,
David Brearley,
Wm: Paterson,
Jona: Dayton.

PENNSYLVANIA.
B Franklin,
Thomas Mifflin,
Robt. Morris,
Geo. Clymer,
Tho. Fitz Simons,
Jared Ingersoll,
James Wilson,
Gouv Morris.

DELAWARE.
Geo: Read,
Gunning Bedford, Jun,
John Dickinson,
Richard Bassett,
Jaco: Broom,

MARYLAND.
James McHenry,
Dan of St. Thos. Jenifer,
Danl Carroll.

VIRGINIA.
John Blair,
James Madison, Jr.

NORTH CAROLINA.
Wm. Blount,
Richd. Dobbs Spaight,
Hu Williamson.

SOUTH CAROLINA.
J. Rutledge,
Charles Cotesworth Pinckney,
Charles Pinckney,
Pierce Butler.

GEORGIA.
William Few,
Abr Baldwin.

Attest: William Jackson, *Secretary.*

ARTICLES IN ADDITION TO AND AMENDMENT OF THE CONSTITUTION OF THE UNITED STATES OF AMERICA, PROPOSED BY CONGRESS, AND RATIFIED BY THE LEGISLATURES OF THE SEVERAL STATES, PURSUANT TO THE FIFTH ARTICLE OF THE ORIGINAL CONSTITUTION.

ARTICLE I. — Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble and to petition the government for a redress of grievances.

ARTICLE II. — A well-regulated militia, being necessary to the security of a free State, the right of the people to keep and bear arms, shall not be infringed.

ARTICLE III. — No soldier shall, in time of peace be quartered in any house without the consent of the owner, nor in time of war, but in a manner to be prescribed by law.

ARTICLE IV. — The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no warrants shall issue but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

ARTICLE V. — No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a grand jury except in cases arising in the land or naval forces, or in the militia, when in actual service in time of war or public danger; nor shall any person be subject for the same offense to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use without just compensation.

ARTICLE VI. — In all criminal prosecutions the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the

witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the assistance of counsel for his defense.

ARTICLE VII. — In suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved, and no fact tried by a jury shall be otherwise reëxamined in any court of the United States, than according to the rules of the common law.

ARTICLE VIII. — Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

ARTICLE IX. — The enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage others retained by the people.

ARTICLE X. — The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.

ARTICLE XI. — The judicial power of the United States shall not be construed to extend to any suit in law or equity, commenced or prosecuted against one of the United States by citizens of another State, or by citizens or subjects of any foreign state.

ARTICLE XII. — 1. The electors shall meet in their respective States, and vote by ballot for President and Vice-President, one of whom, at least, shall not be an inhabitant of the same State with themselves; they shall name in their ballots the person voted for as President, and in distinct ballots the person voted for as Vice-President, and they shall make distinct lists of all persons voted for as President, and of all persons voted for as Vice-President, and of the number of votes for each, which lists they shall sign and certify, and transmit sealed to the seat of government of the United States, directed to the President of the Senate; — the President of the Senate shall, in the presence of the Senate and House of Representatives, open all the certificates and the votes shall then be counted; — the person having the greatest number of votes for President shall be the President, if such number be a majority of the whole number of electors appointed; and if no person have such majority, then from the persons having the highest numbers not exceeding three on the list of those voted for as President, the House of Representatives shall choose immediately, by ballot, the

President. But in choosing the President, the votes shall be taken by States, the representation from each State having one vote; a quorum for this purpose shall consist of a member or members from two thirds of the States, and a majority of all the States shall be necessary to a choice. And if the House of Representatives shall not choose a President whenever the right of choice shall devolve upon them, before the fourth day of March next following, then the Vice-President shall act as President, as in the case of the death or other constitutional disability of the President. — The person having the greatest number of votes as Vice-President, shall be the Vice-President, if such number be a majority of the whole number of electors appointed, and if no person have a majority, then from the two highest numbers on the list, the Senate shall choose the Vice-President; a quorum for the purpose shall consist of two thirds of the whole number of Senators, and a majority of the whole number shall be necessary to a choice. But no person constitutionally ineligible to the office of President shall be eligible to that of Vice-President of the United States.

ARTICLE XIII. — Section 1. Neither slavery nor involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction.

Section 2. Congress shall have power to enforce this article by appropriate legislation.

ARTICLE XIV. — Section 1. All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

Section 2. Representatives shall be apportioned among the several States according to their respective numbers, counting the whole number of persons in each State, excluding Indians not taxed. But when the right to vote at any election for the choice of Electors for President and Vice-President of the United States, Representatives in Congress, the executive and judicial officers of a State, or the members of the

legislature thereof, is denied to any of the male inhabitants of such State, being twenty-one years of age and citizens of the United States, or in any way abridged, except for participation in rebellion, or other crime, the basis of representation therein shall be reduced in the proportion which the number of such male citizens shall bear to the whole number of male citizens twenty-one years of age in such State.

Section 3. No person shall be a Senator or Representative in Congress, or Elector of President and Vice-President, or hold any office, civil or military, under the United States, or under any State, who, having previously taken an oath, as a member of Congress, or as an officer of the United States, or as a member of any State legislature, or as an executive or judicial officer of any State, to support the Constitution of the United States, shall have engaged in insurrection or rebellion against the same, or given aid or comfort to the enemies thereof. But Congress may by a vote of two thirds of each house, remove such disability.

Section 4. The validity of the public debt of the United States, authorized by law, including debts incurred for payment of pensions and bounties for services in suppressing insurrection or rebellion, shall not be questioned. But neither the United States nor any State shall assume or pay any debt or obligation incurred in aid of insurrection or rebellion against the United States, or any claim for the loss or emancipation of any slave; but all such debts, obligations, and claims shall be held illegal and void.

Section 5. The Congress shall have power to enforce by appropriate legislation the provisions of this article.

ARTICLE XV. — Section 1. The right of citizens of the United States to vote shall not be denied or abridged by the United States or any State on account of race, color, or previous condition of servitude.

Section 2. The Congress shall have power to enforce this article by appropriate legislation.

APPENDIX B

ARTICLES OF CONFEDERATION

Articles of Confederation and Perpetual Union between the States of New Hampshire, Massachusetts Bay, Rhode Island and Providence Plantations, Connecticut, New York, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, North Carolina, South Carolina, and Georgia.

ARTICLE I. — The style of this Confederacy shall be, "The United States of America."

ART. II. — Each State retains its sovereignty, freedom, and independence, and every power, jurisdiction, and right, which is not by this Confederation expressly delegated to the United States in Congress assembled.

ART. III. — The said States hereby severally enter into a firm league of friendship with each other, for their common defense, the security of their liberties, and their mutual and general welfare, binding themselves to assist each other against all force offered to, or attacks made upon them, or any of them, on account of religion, sovereignty, trade, or any other pretense whatever.

ART. IV. — The better to secure and perpetuate mutual friendship and intercourse among the people of the different States in this Union, the free inhabitants of each of these States, paupers, vagabonds, and fugitives from justice excepted, shall be entitled to all privileges and immunities of free citizens in the several States; and the people of each State shall have free ingress and egress to and from any other State, and shall enjoy therein all the privileges of trade and commerce subject to the same duties, impositions, and restrictions as the inhabitants thereof respectively; provided that such restrictions shall not

extend so far as to prevent the removal of property imported into any State to any other State of which the owner is an inhabitant; provided also, that no imposition, duties, or restriction shall be laid by any State on the property of the United States or either of them. If any person guilty of, or charged with, treason, felony, or other high misdemeanor in any State shall flee from justice and be found in any of the United States, he shall, upon demand of the governor or executive power of the States from which he fled, be delivered up and removed to the State having jurisdiction of his offense. Full faith and credit shall be given in each of these States to the records, acts, and judicial proceedings of the courts and magistrates of every other State.

ART. V. — For the more convenient management of the general interests of the United States, delegates shall be annually appointed in such manner as the Legislature of each State shall direct, to meet in Congress on the first Monday in November in every year with a power reserved to each State to recall its delegates, or any of them, at any time within the year, and to send others in their stead for the remainder of the year. No State shall be represented in Congress by less than two, nor by more than seven members; and no person shall be capable of being a delegate for more than three years in any term of six years; nor shall any person, being a delegate, be capable of holding any office under the United States for which he, or another for his benefit, receives any salary, fees, or emolument of any kind. Each State shall maintain its own delegates in any meeting of the States and while they act as members of the Committee of the States. In determining questions in the United States in Congress assembled, each State shall have one vote. Freedom of speech and debate in Congress shall not be impeached or questioned in any court or place out of Congress; and the members of Congress shall be protected in their persons from arrest and imprisonment during the time of their going to and from, and attendance on, Congress, except for treason, felony, or breach of the peace.

ART. VI. — No State, without the consent of the United States, in Congress assembled, shall send any embassy to, or receive any embassy from, or enter into any conference, agreement, alliance, or treaty with any king, prince, or state; nor shall any person holding any office of

profit or trust under the United States, or any of them, accept of any present, emolument, office, or title of any kind whatever from any king, prince, or foreign state; nor shall the United States, in Congress assembled, or any of them, grant any title of nobility.

No two or more States shall enter into any treaty, confederation, or alliance whatever between them, without the consent of the United States, in Congress assembled, specifying accurately the purposes for which the same is to be entered into, and how long it shall continue.

No State shall lay any imposts or duties which may interfere with any stipulations in treaties entered into by the United States, in Congress assembled, with any king, prince, or state, in pursuance of any treaties already proposed by Congress to the courts of France and Spain.

No vessels of war shall be kept up in time of peace by any State, except such number only as shall be deemed necessary by the United States, in Congress assembled, for the defense of such State or its trade, nor shall any body of forces be kept up by any State in time of peace, except such number only as, in the judgment of the United States, in Congress assembled, shall be deemed requisite to garrison the forts necessary for the defense of such State; but every State shall always keep up a well-regulated and disciplined militia, sufficiently armed and accoutered, and shall provide and constantly have ready for use in public stores a due number of field-pieces and tents, and a proper quantity of arms, ammunition, and camp equipage.

No State shall engage in any war without the consent of the United States, in Congress assembled, unless such State be actually invaded by enemies, or shall have received certain advice of a resolution being formed by some nation of Indians to invade such State, and the danger is so imminent as not to admit of a delay till the United States, in Congress assembled, can be consulted; nor shall any State grant commissions to any ships or vessels of war, nor letters of marque or reprisal, except it be after a declaration of war by the United States, in Congress assembled, and then only against the kingdom or state, and the subjects thereof, against which war has been so declared, and under such regulations as shall be established by the United States, in Congress assembled, unless such State be infested by pirates, in which case vessels of war may be fitted out for that occasion, and kept so long as the danger

shall continue, or until the United States, in Congress assembled, shall determine otherwise.

ART. VII. — When land forces are raised by any State for the common defense, all officers of or under the rank of Colonel shall be appointed by the Legislature of each State respectively by whom such forces shall be raised, or in such manner as such State shall direct, and all vacancies shall be filled up by the State which first made the appointment.

ART. VIII. — All charges of war, and all other expenses that shall be incurred for the common defense, or general welfare, and allowed by the United States, in Congress assembled, shall be defrayed out of a common treasury, which shall be supplied by the several States in proportion to the value of all land within each State, granted to, or surveyed for, any person, as such land and the buildings and improvements thereon shall be estimated, according to such mode as the United States, in Congress assembled, shall, from time to time, direct and appoint. The taxes for paying that proportion shall be laid and levied by the authority and direction of the Legislatures of the several States, within the time agreed upon by the United States, in Congress assembled.

ART. IX. — The United States, in Congress assembled, shall have the sole and exclusive right and power of determining on peace and war, except in the cases mentioned in the sixth Article; of sending and receiving ambassadors; entering into treaties and alliances, provided that no treaty of commerce shall be made, whereby the legislative power of the respective States shall be restrained from imposing such imposts and duties on foreigners as their own people are subjected to, or from prohibiting the exportation or importation of any species of goods or commodities whatever; of establishing rules for deciding, in all cases, what captures on land and water shall be legal, and in what manner prizes taken by land or naval forces in the service of the United States shall be divided or appropriated; of granting letters of marque and reprisal in times of peace; appointing courts for the trial of piracies and felonies committed on the high seas; and establishing courts for receiving and determining finally appeals in all cases of captures; provided that no member of Congress shall be appointed a judge of any of the said courts.

The United States, in Congress assembled, shall also be the last resort on appeal in all disputes and differences now subsisting, or that hereafter may arise between two or more States concerning boundary, jurisdiction, or any other cause whatever; which authority shall always be exercised in the manner following: Whenever the legislative or executive authority, or lawful agent of any State in controversy with another, shall present a petition to Congress, stating the matter in question, and praying for a hearing, notice thereof shall be given by order of Congress to the legislative or executive authority of the other State in controversy, and a day assigned for the appearance of the parties by their lawful agents, who shall then be directed to appoint, by joint consent, commissioners or judges to constitute a court for hearing and determining the matter in question; but if they cannot agree, Congress shall name three persons out of each of the United States, and from the list of such persons each party shall alternately strike out one, the petitioners beginning, until the number shall be reduced to thirteen; and from that number not less than seven nor more than nine names, as Congress shall direct, shall, in the presence of Congress, be drawn out by lot; and the persons whose names shall be so drawn, or any five of them, shall be commissioners or judges, to hear and finally determine the controversy, so always as a major part of the judges who shall hear the cause shall agree in the determination; and if either party shall neglect to attend at the day appointed, without showing reasons which Congress shall judge sufficient, or being present, shall refuse to strike, the Congress shall proceed to nominate three persons out of each State, and the secretary of Congress shall strike in behalf of such party absent or refusing; and the judgment and sentence of the court, to be appointed in the manner before prescribed, shall be final and conclusive; and if any of the parties shall refuse to submit to the authority of such court, or to appear or defend their claim or cause, the court shall nevertheless proceed to pronounce sentence or judgment, which shall in like manner be final and decisive; the judgment or sentence and other proceedings being in either case transmitted to Congress, and lodged among the acts of Congress for the security of the parties concerned; provided, that every commissioner, before he sits in judgment, shall take an oath, to be administered by one of the judges of the supreme

or superior court of the State where the cause shall be tried, "well and truly to hear and determine the matter in question, according to the best of his judgment, without favor, affection, or hope of reward." Provided, also, that no State shall be deprived of territory for the benefit of the United States.

All controversies concerning the private right of soil claimed under different grants of two or more States, whose jurisdictions, as they may respect such lands, and the States which passed such grants are adjusted, the said grants or either of them being at the same time claimed to have originated antecedent to such settlement of jurisdiction, shall, on the petition of either party to the Congress of the United States, be finally determined, as near as may be, in the same manner as is before prescribed for deciding disputes respecting territorial jurisdiction between different States.

The United States, in Congress assembled, shall also have the sole and exclusive right and power of regulating the alloy and value of coin struck by their own authority, or by that of the respective States; fixing the standard of weights and measures throughout the United States; regulating the trade and managing all affairs with the Indians, not members of any of the States; provided that the legislative right of any State, within its own limits, be not infringed or violated; establishing and regulating post offices from one State to another, throughout all the United States, and exacting such postage on the papers passing through the same as may be requisite to defray the expenses of the said office; appointing all officers of the land forces in the service of the United States, excepting regimental officers; appointing all the officers of the naval forces, and commissioning all officers whatever in the service of the United States; making rules for the government and regulation of the said land and naval forces, and directing their operations.

The United States, in Congress assembled, shall have authority to appoint a committee, to sit in the recess of Congress, to be denominated "A Committee of the States," and to consist of one delegate from each State, and to appoint such other committees and civil officers as may be necessary for managing the general affairs of the United States under their direction; to appoint one of their number to preside; provided that no person be allowed to serve in the office of

president more than one year in any term of three years; to ascertain the necessary sums of money to be raised for the service of the United States, and to appropriate and apply the same for defraying the public expenses; to borrow money or emit bills on the credit of the United States, transmitting every half year to the respective States an account of the sums of money so borrowed or emitted; to build and equip a navy; to agree upon the number of land forces, and to make requisitions from each State for its quota, in proportion to the number of white inhabitants in such State, which requisition shall be binding; and thereupon the Legislature of each State shall appoint the regimental officers, raise the men, and clothe, arm, and equip them in a soldier-like manner, at the expense of the United States; and the officers and men so clothed, armed, and equipped shall march to the place appointed, and within the time agreed on by the United States, in Congress assembled; but if the United States, in Congress assembled, shall, on consideration of circumstances, judge proper that any State should not raise men, or should raise a smaller number than its quota, and that any other State should raise a greater number of men than the quota thereof, such extra number shall be raised, officered, clothed, armed, and equipped in the same manner as the quota of such State, unless the Legislature of such State shall judge that such extra number can not be safely spared out of the same, in which case they shall raise, officer, clothe, arm, and equip as many of such extra number as they judge can be safely spared, and the officers and men so clothed, armed, and equipped shall march to the place appointed, and within the time agreed on by the United States, in Congress assembled.

The United States, in Congress assembled, shall never engage in a war, nor grant letters of marque and reprisal in time of peace, nor enter into any treaties or alliances, nor coin money, nor regulate the value thereof, nor ascertain the sums and expenses necessary for the defense and welfare of the United States, or any of them, nor emit bills, nor borrow money on the credit of the United States, nor appropriate money, nor agree upon the number of vessels of war to be built or purchased, or the number of land or sea forces to be raised, nor appoint a commander in chief of the army or navy, unless nine States assent to the same, nor shall a question on any other point, except for

adjourning from day to day, be determined, unless by the votes of a majority of the United States, in Congress assembled.

The Congress of the United States shall have power to adjourn to any time within the year, and to any place within the United States, so that no period of adjournment be for a longer duration than the space of six months, and shall publish the journal of their proceedings monthly, except such parts thereof relating to treaties, alliances, or military operations as in their judgment require secrecy; and the yeas and nays of the delegates of each State, on any question, shall be entered on the journal when it is desired by any delegate; and the delegates of a State, or any of them, at his or their request, shall be furnished with a transcript of the said journal except such parts as are above excepted, to lay before the Legislatures of the several States.

ART. X. — The Committee of the States, or any nine of them, shall be authorized to execute, in the recess of Congress, such of the powers of Congress as the United States, in Congress assembled, by the consent of nine States, shall, from time to time, think expedient to vest them with; provided that no power be delegated to the said Committee, for the exercise of which, by the Articles of Confederation, the voice of nine States in the Congress of the United States assembled is requisite.

ART. XI. — Canada, acceding to this Confederation, and joining in the measures of the United States shall be admitted into, and entitled to all the advantages of this Union; but no other colony shall be admitted into the same, unless such admission be agreed to by nine States.

ART. XII. — All bills of credit emitted, moneys borrowed, and debts contracted by or under the authority of Congress, before the assembling of the United States, in pursuance of the present Confederation, shall be deemed and considered as a charge against the United States, for payment and satisfaction whereof the said United States and the public faith are hereby solemnly pledged.

ART. XIII. — Every State shall abide by the determinations of the United States, in Congress assembled, on all questions which by this Confederation are submitted to them. And the Articles of this Confederation shall be inviolably observed by every State, and the Union

shall be perpetual; nor shall any alteration at any time hereafter be made in any of them, unless such alteration be agreed to in a Congress of the United States, and be afterwards confirmed by the Legislatures of every State.

And whereas it hath pleased the great Governor of the world to incline the hearts of the Legislatures we respectively represent in Congress to approve of, and to authorize us to ratify, the said Articles of Confederation and perpetual Union, know ye, that we, the undersigned delegates, by virtue of the power and authority to us given for that purpose, do, by these presents, in the name and in behalf of our respective constituents, fully and entirely ratify and confirm each and every of the said Articles of Confederation and perpetual Union, and all and singular the matters and things therein contained. And we do further solemnly plight and engage the faith of our respective constituents, that they shall abide by the determinations of the United States, in Congress assembled, on all questions which by the said Confederation are submitted to them; and that the Articles thereof shall be inviolably observed by the States we respectively represent, and that the Union shall be perpetual. In witness whereof, we have hereunto set our hands in Congress. Done at Philadelphia, in the State of Pennsylvania, the ninth day of July, in the year of our Lord 1778, and in the third year of the Independence of America.

JUN 20 1903

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